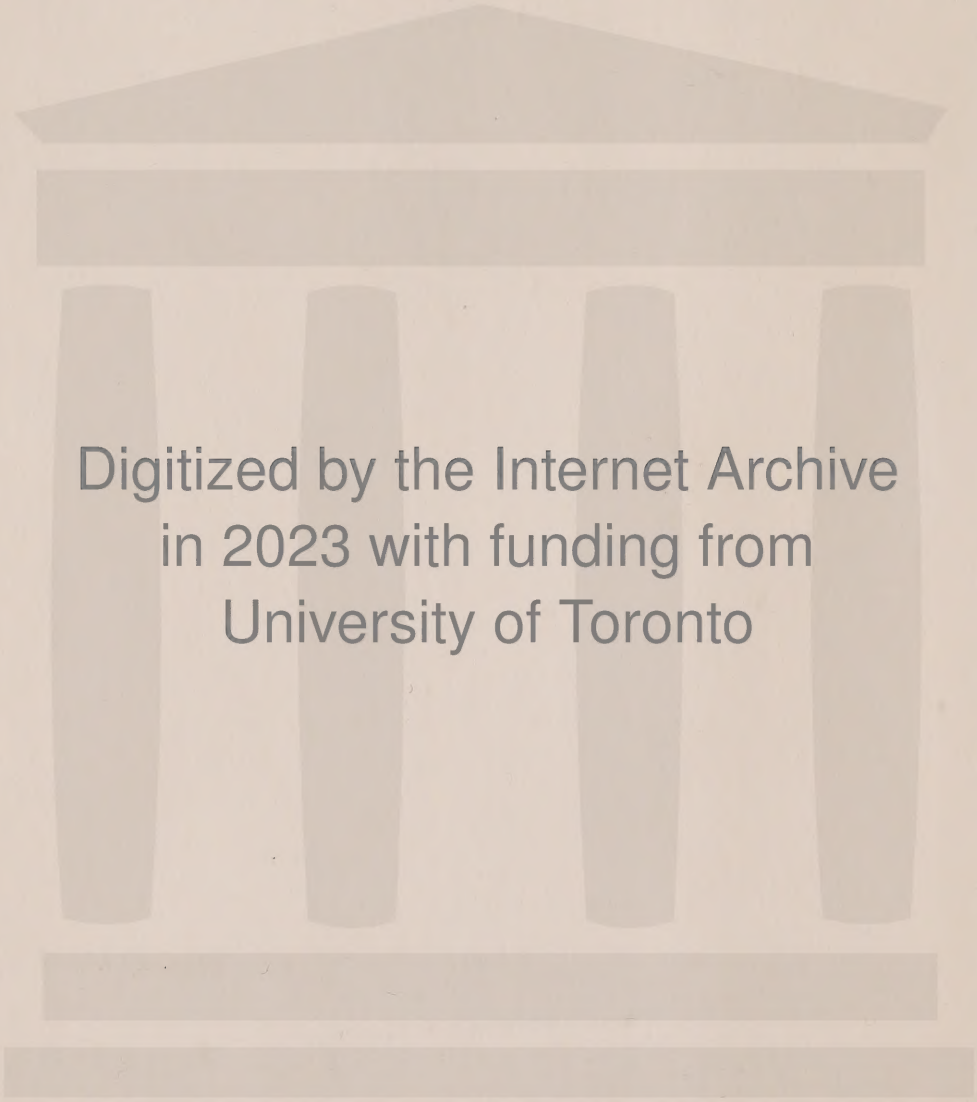

First Session—Twenty-eighth Parliament

1968-69

THE SENATE OF CANADA

PROCEEDINGS OF THE SENATE COMMITTEE ON

HEALTH, WELFARE AND SCIENCE

The Honourable MAURICE LAMONTAGNE, *Chairman*

No. 1

WEDNESDAY, FEBRUARY 26th, 1969

Complete Proceedings on Bill C-152,

intituled:

"An Act to amend the Veterans' Land Act".

WITNESS:

Department of Veterans Affairs: A. D. McCracken, Director of Administration and Finance Services, Soldier Settlement and Veterans' Land Act Branch.

REPORT OF THE COMMITTEE

The Queen's Printer, Ottawa, 1969

29880—1

THE SENATE COMMITTEE ON HEALTH, WELFARE AND SCIENCE

The Honourable Maurice Lamontagne, *Chairman*

The Honourable Senators:

Belisle
Blois
Bourget
Cameron
Carter
Connolly (*Halifax North*)
Croll
Denis
Fergusson
Fournier (*De Lanaudière*)
Fournier (*Madawaska-Restigouche*)
Gladstone
Hays
Hastings
Inman
Irvine
Kinnear
Lamontagne
Macdonald (*Cape Breton*)
McGrand
Michaud
O'Leary (*Antigonish-Guysborough*)
Phillips (*Prince*)
Quart
Robichaud
Roebuck
Smith (*Queens-Shelburne*)
Sullivan
Thompson
Yuzyk—(30)

Ex Officio Members: Flynn and Martin

(Quorum 7)

ORDER OF REFERENCE

Extract from the Minutes of the Proceedings of the Senate, Thursday, February 6th, 1969:

"Pursuant to the Order of the Day, the Honourable Senator Carter moved, seconded by the Honourable Senator Basha, that the Bill C-152, intituled: "An Act to amend the Veterans' Land Act", be read the second time.

After debate,
And the question being put on the motion, it was—
Resolved in the affirmative.

The Bill was then read the second time.

The Honourable Senator Carter moved, seconded by the Honourable Senator Molson, that the Bill be referred to the Standing Senate Committee on Health, Welfare and Science.

The question being put on the motion, it was—
Resolved in the affirmative."

ROBERT FORTIER,
Clerk of the Senate.

29880—1½

MINUTES OF PROCEEDINGS

WEDNESDAY, February 26th, 1969.
(1)

Pursuant to notice the Senate Committee on Health, Welfare and Science met this day at 2.00 p.m.

Present: The Honourable Senators Lamontagne (*Chairman*), Belisle, Blois, Bourget, Carter, Connolly (*Halifax North*), Fournier (*De Lanaudière*), Inman, Irvine, Kinnear, O'Leary (*Antigonish-Guysborough*), Robichaud, Smith (*Queens-Shelburne*), Sullivan and Yuzyk. (15)

Present but not of the Committee: The Honourable Senators Giguère and O'Leary (*Carleton*). (2)

In attendance: E. Russell Hopkins, Law Clerk and Parliamentary Counsel.

Upon motion, it was *Resolved* to print 800 copies in English and 300 copies in French of the proceedings of the Committee on Bill C-152.

Bill C-152, An Act to amend the Veterans' Land Act, was considered.

The following witness was heard:

DEPARTMENT OF VETERANS AFFAIRS:

A. D. McCracken, Director of Administration and Finance Services, Soldier Settlement and Veterans' Land Act Branch.

Upon motion, it was *Resolved* to report the said Bill without amendment.

At 2.45 p.m. the Committee adjourned to the call of the Chairman.

ATTEST:

Patrick J. Savoie,
Clerk of the Committee.

REPORT OF THE COMMITTEE

WEDNESDAY, February 26th, 1969.

The Senate Committee on Health, Welfare and Science to which was referred the Bill C-152, intituled: "An Act to amend the Veterans' Land Act", has in obedience to the order of reference of February 6th, 1969, examined the said Bill and now reports the same without amendment.

All which is respectfully submitted.

MAURICE LAMONTAGNE,
Chairman.

THE SENATE

THE SENATE COMMITTEE ON HEALTH, WELFARE AND SCIENCE

EVIDENCE

Ottawa, Wednesday, February 26, 1969.

The Senate Committee on Health, Welfare and Science to which was referred Bill C-152, to amend the Veterans' Land Act, met this day at 2 p.m., to give consideration to the bill.

Senator Maurice Lamontagne (*Chairman*) in the Chair.

The Chairman: Honourable senators, the purpose of our meeting today is to consider Bill C-152, and before proceeding further I should like to have the usual resolution for the printing of the proceedings in both English and French.

Upon motion, it was *resolved* that a verbatim report be made of the proceedings on the said Bill and that 800 copies in English and 300 copies in French be printed.

The Chairman: The bill before us is a fairly simple and straightforward one. We have already received in the chamber a very good explanation from the sponsor, Senator Carter. We have with us today Mr. A. D. McCracken, Director of Administration and Finance Services, Soldier Settlement and Veterans' Land Act Branch, Department of Veterans Affairs, and I invite him at this stage to make a brief statement.

Mr. A. D. McCracken, Director of Administration and Finance Services, Soldier Settlement and Veterans' Land Act Branch, Department of Veterans Affairs: Thank you, Mr. Chairman.

It is rather difficult to give any explanation further to that which has already been given so exceedingly well by Senator Carter when he moved the second reading of this bill on February 6. I would just like to emphasize two or three points.

There are at the present time three interest rates under the Veterans' Land Act. The rate on the first $6,000 is 3½ per cent; the rate on loans of between $6,000 and $20,000 is 5 per cent; and the rate on loans in amounts above $20,000 to the maximum of $40,000 is 7¾ per cent, which is the current rate chargeable under Farm Credit Act.

The amending bill makes no change at all in the rate of 3½ per cent, which was the rate applicable to the original benefits under the Veterans' Land Act. The bill does change from a statutory base to a regulation-making base the interest provisions with respect to loans in amounts from $6,000 up to $40,000, and it is contemplated that the rate as established by regulation would be the same rate as is charged under the Farm Credit Act, which, as I have said, is right now 7¾ per cent. Under the Farm Credit Act interest rate regulations the rate is changeable every six months, on the 1st of April and the 1st of October, and it is based on the rate of yield on Dominion of Canada bonds maturing in a period of 5 to 10 years.

One other point I would like to make is that the change in the rate of interest will not apply to any loans that have been approved on behalf of veterans before the bill is given royal assent, even though we may not yet have entered into a contract with the veterans.

I think that is all I have to say, Mr. Chairman.

The Chairman: Thank you, Mr. McCracken.

I am entirely in the hands of the committee. I suppose because of the simple nature and quite clear purpose of the bill, taking into account the explanations we have already received in the Senate and today in this committee, it would be rather useless to go through the bill clause by clause. So, I would at this stage ask the members of the committee if they have any questions to ask Mr. McCracken.

Senator Robichaud: The new section 16 provides that the Director may require an insurance policy, and later on says:

> if the veteran fails or neglects to keep such property insured then it is lawful for the Director to insure such property.

Why the word "may" instead of "shall"?

Mr. McCracken: Because in some cases we consider that the land value alone is greater than the outstanding indebtedness to the Director. We encourage veterans to carry fire and tempest protection on their buildings, but where our security does not require that the property be insured in favour of the Director it is purely a matter whether the veteran wishes to carry the insurance himself.

Senator Bourget: Has any objection been raised to the bill by the veterans association?

Mr. McCracken: The Dominion Command of the Royal Canadian Legion presented a brief to the Standing Committee on Veterans Affairs in the other place in which they questioned whether the Government should be establishing a rate of one per cent above the cost of money to the Government. I do not like to hide behind Government policy, but this is a matter of Government policy. This bill corresponds to amendments made to a number of acts, such as the Farm Credit Act, the Farm Machinery Syndicates Act and Fisheries Improvement Loans Act.

Mr. E. Russell Hopkins, Law Clerk and Parliamentary Counsel: At this session?

Mr. McCracken: At this session. The loans to which an increased interest rate will apply came into effect in 1954. At that time the rate was fixed at five per cent, which was approximately one per cent above the cost of money to the Government at that time. Over the intervening years there has been no change in the five per cent fixed rate. Until about 1965 there was no subsidization from the standpoint of what it was costing the Government for the money it was lending under this act in relation to the five per cent rate. Since 1965 there has been a variation of one to one and a half per cent, which is where it stands at present. The consequence of this bill on the interest rate to be charged on loans from $6,000 to $20,000 will be to re-establish the relationship between the rate of interest and the cost of money to the Government, as was the case from 1954 until about 1965.

Senator O'Leary (Carleton): When this bill becomes law you will be free to fix new rates.

Mr. McCracken: So far as it relates to loans above $6,000.

Senator O'Leary (Carleton): On what principle will you act then?

Mr. McCracken: The rate will be the same as that charged under the Farm Credit Act, which is one per cent above the cost of money to the Government.

Senator O'Leary (Carleton): The higher interest rates prevailing in the economy will not influence your decision?

Mr. McCracken: The rates will be set every six months, on April 1 and October 1, based on the mean weekly average of Dominion of Canada securities and bonds for the preceding six-month period of those bonds maturing in a five to ten-year period.

The Chairman: And, of course, the Government borrowing rate reflects the situation of the capital market.

Senator Blois: This applies only to new loans. If the rate goes up in six months time that does not put the rate of interest up?

Mr. McCracken: It will apply only to loans approved after the bill is given Royal Assent.

Senator Blois: Not to someone who gets a loan after Royal Assent and then six months later the rate goes up?

Mr. McCracken: No.

Senator Blois: Once it is set it is established.

Mr. McCracken: Once it is set. When the rate for the individual borrower is set, it is set for the period of his contract.

Senator Blois: There seems to be some doubt about that in the minds of people borrowing money.

Senator Giguère: What about pending applications?

Mr. McCracken: Any loan we approve before the bill receives Royal Assent will bear interest at the existing rate. We had a problem this year over the amount of money available to lend to veterans in making it go as far as it could. We thought we should make it available to those in the lower income groups. We set an upper limit of

$7,000 annual taxable income. If a man was getting more than $7,000 a year we said, "We are sorry. Please come back next year. If you are able to find yourself a property, get an option on it, a mortgage or hold it under an agreement of sale, we will give you a deferred loan and make the loan money available to you on April 1, 1969. "There are approximately 1,400 in this category across the country. We will not be able to enter into contracts with these people until after April 1 when we get title. These people are protected under this bill by virtue of the last section which says:

> This Act does not apply in respect of any indebtedness by a veteran...that arose before the coming into force of this Act,

or as a result of an application made before September 13, 1969. I do not think anybody who has an application in the mill now will be affected by this bill.

Senator O'Leary (Carleton): Tell me what happens in the event of a borrower finding himself in a position for one reason or another unable to meet these interest charges? What has been your experience over the years?

Mr. McCracken: I brought along a file which will give you some indication of the number of agreements which we have had to terminate and this is to November 30, 1968, which is approximately 24 years of operation. With respect to farms, of over 30,000 contracts we have had 1,440 veterans who voluntarily relinquished their property. We have had 162 cases where we have had to go to what is known as the Provincial Advisory Board which is tantamount to foreclosure. The Provincial Advisory Board is chaired by a judge with a representative of the Royal Canadian Legion and one of our own officials.

This applies to small holders or part-time farmers, as they are known. We have had 732 who have voluntarily relinquished their property and only 134 where we have had to take what we would describe as foreclosure procedure.

With respect to commercial fishermen 92 have voluntarily relinquished their property and 14 we have had to take to the Provincial Advisory Board. I think in round figures it is something like 2,300 or 2,400 out of a total number of contracts in excess of 90,000.

The payment terms are, I thing, with the interest rates we are talking about here, still favourable. On the maximum loan that a small holder can obtain today, which is up to $18,000, under the existing interest rates over a 30-year period, his monthly payment is $77. Assuming the rate on the money between $6,000 and $18,000 goes to 7 per cent, his monthly payment would be $92. This is on a maximum.

Senator O'Leary (Carleton): In the case of a back-crop or some other circumstances which made it difficult for this man to pay his interest would you defer payment?

Mr. McCracken: Yes. We do not like to say to people that you can just forget your payment this year because things like this have a tendency to become a habit, however, we deal with each individual case on what I think is a humane and realistic basis. After all, this is veterans' legislation and the purpose of it is to successfully rehabilitate veterans and if our first inclination if we do not get paid is to try to get them off the property then we certainly have not fulfilled the purpose of the legislation, nor have we done the veteran any good.

Senator O'Leary (Carleton): When you get them off the property what do you do with it?

Mr. McCracken: We have to advertise the property for resale at the best price we can obtain.

Senator O'Leary (Carleton): Have there been losses because of that?

Mr. McCracken: I am sorry, senator, I did not bring the statement I had on losses. They have been very small. In relation to March 31, 1968, our arrears on farms at that time in relation to the total amount due was 8.5 per cent. It was right after March 31 last year when the Wheat Board made a sizeable payment in relation to the 1966-67 crop, which reduced this 8.5 per cent considerably.

With respect to part-time farmers or small holders, the arrears at that time were 1.1 per cent and this is about the way it has been running. I think if I recall correctly, at the end of the 1967 crop year, which was the end of July, 1968 or July 1, that the arrears in the prairie provinces were something like 2 per cent.

Senator O'Leary (Carleton): Where are most of the loans? Are they mostly in the west?

Mr. McCracken: The bulk of the farm loans today, approximately 13,000 farming accounts, the bulk of them are in the three prairie provinces.

In so far as small holding or part-time farming accounts are concerned, we have over 35,000, the bulk of those are in Ontario, British Columbia and the four Atlantic provinces.

Senator O'Leary (Antigonish-Guysborough): The witness answered Senator Grattan O'Leary a little while ago by saying the interest rate in the future were going to be the same as under the Farm Credit Act. This immediately leads to the question, what is the advantage of that, say on a loan of $20,000?

Mr. McCraken: The interest rate only goes to the Farm Credit Act rate on loans above $6,000; on loans up to $6,000 the rate remains at 3½ per cent.

Senator O'Leary (Antigonish-Guysborough): I am talking about $20,000.

Mr. McCracken: If you would bear with me just a minute—on the first $6,000 of the loan, there is a ten-year conditional grant or benefit of $1,400; so I suggest there is a benefit in that regard which continues on.

The other thing in regard to the Farm Credit Act—and the comparison is direct—is that there is no similar benefit under the Farm Credit Act.

Senator O'Leary (Antigonish-Guysborough): $20,000.

Mr. McCracken: That is true, but the interest rate on the first $6,000 under the Farm Credit Act is 7¾ per cent.

Senator O'Leary (Antigonish-Guysborough): All right. Let us take $14,000 to $20,000, what is the advantage?

Mr. McCracken: Under the Veterans' Land Act? I would not say there was any advantage at all.

Senator O'Leary (Antigonish-Guysborough): That is the question to which I wanted the answer and you have answered it now. Secondly, what is the amount of money coming back from this act, from the veterans loans that are repaid. How much money is coming back that was lent out?

Mr. McCracken: We expect this to be $33 million for 1968-69.

Senator O'Leary (Antigonish-Guysborough): What do the veterans pay?

Mr. McCracken: It varies—3½ per cent, 5 per cent, 7¾ per cent. I would say the bulk of that money is being repaid at 5 per cent.

Senator O'Leary (Antigonish-Guysborough): Excuse me, when did they pay 7¾ per cent?

Mr. McCraken: It was 7¾ per cent since the Farm Credit Act went up to 7¾ per cent.

Senator O'Leary (Antigonish-Guysborough): Two months ago.

Mr. McCracken: On loans above $20,000. Before that, if I recall correctly, under the Farm Credit Act the rate was 6⅜ or 6¾, from approximately 1965. The bulk of the money, I would say, that has been paid in, in the past year, of this $33 million, has been money repaid at 5 per cent.

Senator O'Leary (Antigonish-Guysborough): At 5 per cent, and you are charging 7¾ per cent for it now. That is all I am saying—and it is his money, it is the veterans money going back.

Mr. McCracken: May I point this out, that on the basis of estimated volume of business of 6,000 establishments, where the first $6,000 in each case bears interest at 3½ per cent, we are in effect lending more money out at 3½ per cent than we are recovering in our total principal recovery.

Senator O'Leary (Antigonish-Guysborough): You are loaning out more establishments—are you loaning out more money? To more establishments, I recognize. But are you loaning more money?

Mr. McCracken: Yes, we are loaning out an aggregate of more money, yes. Last year we lent a total of $103 million.

Senator O'Leary (Antigonish-Guysborough): Right.

Mr. McCracken: Because of the amount of money that we have been provided with by the Department of Finance in the current year, our loans will aggregate $73 million. We expect to be up another $10 to $15 million in 1969-70.

Senator O'Leary (Antigonish-Guysborough): Where are you getting the other $60 million—$57 million approximately?

Mr. McCracken: The basis of the money that we advance is what is made available to us each year by the Department of Finance plus our principal recoveries. I would say it would be about $35 million of principal recovery in 1969-70.

Senator O'Leary (Antigonish-Guysborough): Thirty?

Mr. McCracken: Thirty-five.

Senator O'Leary (Antigonish-Guysborough): This is veterans money that you are lending—relending, in other words?

Mr. McCracken: Yes.

Senator O'Leary (Antigonish-Guysborough): Yes, Mr. Chairman, yes, it is.

Mr. McCracken: Yes, this is principal repayment.

The Chairman: But originally it was Government money.

Mr. McCracken: It was Government money that was loaned out and is now being repaid under existing contracts.

Senator O'Leary (Antigonish-Guysborough): You are satisfied in your own mind that this is quite a fair principle?

Mr. McCracken: I consider it is, sir, yes.

Senator O'Leary (Antigonish-Guysborough): Thank you. You have not yet explained the revolving fund which comes back to veterans, their money being returned at 3½ per cent, with an average of 5 per cent and going out now at 7¾ per cent. To my mind the principle is not good.

Mr. McCracken: May I repeat that, if we have 6,000 establishments this year and if the average amount of money that we lend to these people is $15,000, then $6,000 of that $15,000 in each of those 6,000 cases will be loaned at 3½ per cent.

Senator O'Leary (Antigonish-Guysborough): Yes.

Mr. McCracken: So, if the point is that we should not be relending at a higher rate money that is being repaid now a 3½ per cent, I suggest to you that in fact we could say that the money which originally bore 3½ per cent is now being reloaned at 3½ per cent.

Senator O'Leary (Antigonish-Guysborough): When this money is returned, is it going into a revolving fund or into the Consolidated Revenue account?

Mr. McCracken: It is going into a revolving fund.

Senator O'Leary (Antigonish-Guysborough): That is the answer I expected you to give. I therefore think the principle is unfair. That is just an opinion, but I would like it to go on record.

Senator Carter: Senator O'Leary (Antigonish-Guysborough) touched on a question I had in mind. When you take into account the 3½ per cent on the first $6,000, and I am thinking about when this becomes law, you will only have two rates, the 3½ per cent on the first $6,000 and the 7¾ rate, or whatever the Farm Credit Loan rate is, on the rest up to $40,000. When you strike an average between these two, what does the average rate work out to? For $20,000, for example, would it work out to 6 per cent?

Mr. McCracken: No. It will be higher than that, Senator Carter. A man who gets a maximum loan as a small holder can be advanced up to a net of $15,400, and, with a conditional grant of $1,400, he has a net repayable debt of $14,000. The average rate of interest on 3½ per cent up to $6,000 and 7¾ per cent on the amount between $6,000 and the additional amount would come out to an average rate of 6½ per cent, approximately.

The Chairman: But, if you take into account the amount that he does not have to repay—

Mr. McCracken: I based it on the repayable debt of $14,000.

The Chairman: But if you take the total amount.

Mr. McCracken: If you took it on the basis of $6,000 and $10,000, you would have a lower rate.

Mr. O'Leary (Antigonish-Guysborough): Five per cent was roughly what you averaged it at before, if I recall what you said.

The Chairman: That was in relation to something else.

Mr. McCracken: I thought I was referring, sir, out of the principal recoveries we are

getting in now, to how much of this money is related to loans that had been made at the 5 per cent rate. This is what I intended to say. I am sorry.

Senator Carter: I would like to ask a question related to the $7,000 guideline that I understand was an internal figure which you picked arbitrarily to have some sort of a measuring rod to dispense the funds which were not big enough to meet all the requests. There was some doubt in the Commons committee as to whether this $7,000 guideline applied only for this fiscal year, or whether it carried over, or is intended to carry over to subsequent fiscal years.

Mr. McCracken: We are commencing operations on the 1st. April, 1969, without any guidelines.

Senator Carter: Without any guidelines at all?

Mr. McCracken: Yes.

Senator Carter: On the assumption you have enough money to meet all your demands?

Mr. McCracken: Yes.

Senator Carter: If that does not prove correct, when are you going to introduce your guidelines?

Mr. McCracken: I would prefer to cross that bridge, perhaps, when we come to it. You are suggesting perhaps we are optimistic. We do not think we are, but only time will tell.

The Chairman: And you still have your supplementary Estimates.

Mr. McCracken: No, the amount of money made available to us for lending is not dependent on an annual appropriation or a supplementary estimate. Up until 1965, loans, capital loans, if you will, made under the Veterans' Land Act were made from funds provided by annual appropriation. When the act was amended in 1965 a revolving fund was established of $380 million, the first charge against the fund being the amount of principal indebtedness then outstanding.

In 1967, by an item in the Estimates, the amount of the fund was increased from $380 million to $530 million, but this is a sort of maximum limit, if you will, and we are dependent for the amount of money we can lend to veterans each year on the amount of money that the Department of Finance considers it can make available for capital lending plus our principal recoveries.

Senator O'Leary (Carleton): What happens in the event of your making a loan of, say, $30,000 to Veteran "X"—when he dies, who takes over that loan? Do you lose it?

Mr. McCracken: No, the act provides that when a veteran dies the rights he has acquired under the act devolve upon his heirs, devisees or personal representative, in accordance with the law of the province in which the property is situated.

Senator O'Leary (Carleton): In other words, to his estate?

Mr. McCracken: Yes.

Senator O'Leary (Carleton): And if the estate is unable to pay back the principal?

Mr. McCracken: Then, with the consent of the provincial advisory board, we would rescind the contract and advertise the property for sale. If the sale returned more than the outstanding debt to the director, then the excess money would be paid into the estate.

Senator Bourget: And those loans are not insured?

Mr. McCracken: Yes, there is a provision under the act whereby a veteran can apply for life insurance and for a life insured loan. This is dependent on whether the pensioner is satisfactory to the company from a health standpoint. I think Senator Carter mentioned in his remarks of February 6 that we have something in the area of 15,000 veterans who are insured on a voluntary basis. I think the number of deaths so far has been two or three hundred, or something like that. I presume it will go up, unfortunately. It is a very good plan.

Senator O'Leary (Antigonish-Guysborough): Obviously, I am having as much trouble following the witness as he is following me. He said in his most recent statement—

The Chairman: Do not make any value judgments!

Senator O'Leary (Antigonish-Guysborough): —that no appropriation is made by Parliament, and then he says the net figure is $530 million for the coming fiscal year, that is available for the coming year.

Mr. McCracken: No, the total amount of the revolving fund is $530 million. The first charge against that amount is the principal indebtedness outstanding under existing agreements. At the present time our total commitments against the $530 million are approximately $430 million.

Senator O'Leary (Antigonish-Guysborough): Then would you answer this question, the loans you have already approved, how much money is available for those yet to come in the coming year?

Mr. McCracken: I cannot tell you exactly how much money is going to be available for this in the coming year, because we have not yet received this information from the Department of Finance, but—

Senator O'Leary (Antigonish-Guysborough): I must interrupt you again. You already know in what amount you have approved loans for the coming year?

Mr. McCracken: Yes. Excuse me, I am sorry.

Senator O'Leary (Antigonish-Guysborough): You also agree you ran out of money last fall, quite early?

Mr. McCracken: Yes. In fact, it was earlier than that.

Senator O'Leary (Antigonish-Guysborough): Then, I wonder why you say there is no appropriation.

Mr. McCracken: Maybe it is a problem of semantics between—

Senator O'Leary (Antigonish-Guysborough): It is not a matter of semantics when you run out of money in September and have no more until the end of March.

Mr. McCracken: The fact that there is a fund established by the legislation does not in fact put dollars in our hands to lend. We are dependent upon the amount of money that the Department of Finance and the government says can be loaned under the Veterans' Land Act in a fiscal year. In the year which is just coming to an end, the Department of Finance said: "You have $40 million plus your principal recoveries," which we estimate will aggregate $33 million. So, our loans in the current fiscal year will total $73 million, which is approximately one-third less than the amount we loaned last year.

Senator O'Leary (Antigonish-Guysborough): So you are going to run out of money in about May of this year? Would you admit that?

Mr. McCracken: No, I would not.

Senator O'Leary (Antigonish-Guysborough): Well, you ran out in September last year?

Mr. McCracken: No, I do not think so.

Senator O'Leary (Antigonish-Guysborough): You know you ran out in September, do you not?

Mr. McCracken: I am talking about the coming year. In fact, we had to discontinue lending in Ontario before September, and this is why we developed the procedure, if you will, of saying to the veterans: "If you can find a property and get a hold on it, we are prepared to give you a firm commitment to give you a loan effective April 1, 1969." We have some 1,400 of those loans now, which will commit us to about $21 million. That is a commitment against the coming year's funds right now.

Senator O'Leary (Antigonish-Guysborough): So you do not think you are going to run out of money as early this year as you did last year?

The Chairman: I think the witness has already answered that question.

Senator O'Leary (Carleton): From where does your branch get this money? It is a parliamentary appropriation, is it not?

Mr. McCracken: No, I do not think it is a matter of their giving us the money as such. It is a part of the government's total cash or capital investment.

The Chairman: It would come under "Loans, Investments and Advances".

Mr. McCracken: If we want to increase the $530 million we would have an item in the estimate under "Loans, Investments and Advances", but the question as to how much money the government is prepared to give the Veterans' Land Act administration to invest in 1969-70 is part and parcel of the government's total economic situation or lending situation.

Senator O'Leary (Carleton): But it is under parliamentary control. They do not just act on their own.

The Chairman: It is not in the budget, but it is part of the non-budgetary items. I am sure it is accounted for under "Loans, Investments and Advances."

Senator O'Leary (Carleton): I would hope so.

The Chairman: Are there any other questions?

Senator Carter: Mr. Chairman, I move that we report the bill.

Senator O'Leary (Carleton): I second the motion.

The Chairman: Is it agreed that I report the bill

Hon. Senators: Agreed.

The Chairman: Thank you, Mr. McCracken. The meeting adjourned.

First Session—Twenty-eighth Parliament
1968-69

THE SENATE OF CANADA

PROCEEDINGS
OF THE
STANDING SENATE COMMITTEE
ON

HEALTH, WELFARE AND SCIENCE

The Honourable MAURICE LAMONTAGNE, *Chairman*

No. 2

WEDNESDAY, MAY 28th, 1969

Complete Proceedings on Bill C-171,

intituled:

"An Act respecting the National Library".

WITNESSES:

Guy Sylvestre, National Librarian; L. E. Levi, Legal Counsel, Department of the Secretary of State.

REPORT OF THE COMMITTEE

29882—1

THE SENATE COMMITTEE ON HEALTH, WELFARE AND SCIENCE

The Honourable Maurice Lamontagne, *Chairman*

The Honourable Senators:

Belisle	Gladstone	Phillips (*Prince*)
Blois	Hays	Quart
Bourget	Hastings	Robichaud
Cameron	Inman	Roebuck
Carter	Irvine	Smith (*Queens-Shelburne*)
Connolly (*Halifax North*)	Kinnear	Sullivan
Croll	Lamontagne	Thompson
Denis	Macdonald (*Cape Breton*)	Yuzyk—(30)
Fergusson	McGrand	
Fournier (*De Lanaudière*)	Michaud	
Fournier (*Madawaska-Restigouche*)	O'Leary (*Antigonish-Guysborough*)	

Ex officio Members: Flynn and Martin

(Quorum 7)

ORDER OF REFERENCE

Extract from the Minutes of the Proceedings of the Senate, Tuesday, April 29th, 1969:

Pursuant to the Order of the Day, the Senate resumed the debate on the motion of the Honourable Senator Fergusson, seconded by the Honourable Senator Inman, for the second reading of the Bill C-171, intituled: "An Act respecting the National Library".

After debate, and—
The question being put on the motion, it was—
Resolved in the affirmative.

The Bill was then read the second time.

The Honourable Senator Fergusson moved, seconded by the Honourable Senator Inman, that the Bill be referred to the Standing Senate Committee on Health, Welfare and Science.

After debate, and—
The question being put on the motion, it was—
Resolved in the affirmative.

ROBERT FORTIER,
Clerk of the Senate.

29882—1½

MINUTES OF PROCEEDINGS

WEDNESDAY, May 28th, 1969.
(2)

Pursuant to notice the Standing Committee on Health, Welfare and Science met this day at 2.00 p.m.

Present: The Honourable Senators Lamontagne (*Chairman*), Cameron, Carter, Connolly (*Halifax North*), Irvine, Kinnear, Macdonald (*Cape Breton*), O'Leary (*Antigonish-Guysborough*), Robichaud, Sullivan and Yuzyk. (11)

In attendance: E. Russell Hopkins, Law Clerk and Parliamentary Counsel.

Upon motion, it was *Resolved* to print 800 copies in English and 300 copies in French of the proceedings of the Committee on Bill C-171.

Bill C-171, An Act respecting the National Library, was considered.

The following witnesses were heard:

Guy Sylvestre,
National Librarian.

L. E. Levi, Legal Counsel,
Department of the Secretary of State.

Upon motion, it was *Resolved* to report the said Bill without amendment.

At 2.50 p.m. the Committee adjourned to the call of the Chairman.

ATTEST:

Patrick J. Savoie,
Clerk of the Committee.

REPORT OF THE COMMITTEE

WEDNESDAY, May 28th, 1969.

The Standing Senate Committee on Health, Welfare and Science to which was referred the Bill C-171, intituled: "An Act respecting the National Library", has in obedience to the order of reference of April 29th, 1969, examined the said Bill and now reports the same without amendment.

All which is respectfully submitted.

MAURICE LAMONTAGNE,
Chairman.

STANDING SENATE COMMITTEE ON HEALTH, WELFARE AND SCIENCE

EVIDENCE

Ottawa, Wednesday, May 28, 1969.

The Standing Senate Committee on Health, Welfare and Science, to which was referred Bill C-171, respecting the National Library, met this day at 2 p.m. to give consideration to the bill.

The Chairman (Senator Maurice Lamontagne): Honourable senators, we have a quorum, and I propose that fe commence now. I would like to have the usual resolution for the printing of the proceedings in both English and French.

> Upon motion it was *Resolved* that a verbatim report be made of the proceedings on the said Bill and that 800 copies in English and 300 copies in French be printed.

We will now have a short explanation from our main witness today, Mr. Guy Sylvestre, who is the National Libarian, and then we will continue with a discussion, if necessary.

Mr. Guy Sylvestre, National Librarian: Mr. Chairman, I do not feel that there is very much that requires to be added to what has already been said by Senator Fergusson, when she introduced the bill in the Senate. However, since I am invited to make an opening statement, I might briefly mention that the Government has felt it necessary to draft a new National Library Act mainly because the library world has undergone such considerable change over the last seventeen years that it has become necessary to adopt a new act in order to permit the National Library to assume a broader and more active role especially in the planning and co-ordination of collection in research libraries, as well as co-ordination of systems of information retrieval and electronic communication.

Two important factors make such planning particularly urgent. In the first place, considerable funds are now available to university libraries for the purchase or books, and an attempt should be made to establish, if possible, some co-ordination of acquisition policies so that unnecessary duplication may be avoided. Secondly, the advent of electronic techniques for storing, processing and transmitting bibliographical information has had considerable impact on library methods and techniques, and it has become imperative to take all possible steps to obtain the largest degree of compatibility among systems to be established by the principal libraries of Canada. The need for such co-ordination exists also at the government level, and it is hoped that under the revised act more co-ordination will be possible among government libraries in Ottawa.

Clauses 7, 8 and 9 are the key clauses in the bill. Clause 7(2) states that:

> Subject to the direction of the Governor in Council, the National Librarian may coordinate the library services of departments, branches and agencies of the Government of Canada including
>
> (a) the acquisition and cataloguing of books;
>
> (b) the supply of professional advice, supervision and personnel; and
>
> (c) the provision of modern information storage and retrieval services including photocopying and microfilming services,

et cetera.

Clause 8 provides that the National Librarian may enter into agreements with Canadian and foreign libraries in these respects.

In order to assist the National Librarian to carry out such a program more adequately, it was considered advisable to reorganize the National Library Advisory Council so that the National Science Library of the National Research Council, the Library of Parliament, the Public Archives, the Canada Council and the Association of Universities and Colleges of Canada would have *ex officio* representation on the Council, which would now be known as the National Library Advisory Board. These provisions are found in clause 9.

Similarly, to carry out such a program more efficiently it was felt necessary to reinforce the National Library senior staff, and to

make this easier the position of Assistant National Librarian would be elevated to Associate National Librarian. This is also in keeping with the situation which as you know, exists in the Library of Parliament, where you have the Parliamentary Librarian and the Associate Parliamentary Librarian.

In another area, it is desirable that new Canadian publications be listed as soon as possible in the national bibliography, *Canadiana,* and accordingly the time limit for deposit has been reduced from one month to one week. Furthermore, the present act requires the deposit of a single copy when the retail value of two copies exceeds $25. This provision was enacted 16 years ago, and we feel this is no longer realistic, so under clause 11 publishers would now be required to deliver two copies of books unless the retail value of one copy exceeds $50.

Finally, the other main modification in the act is in section 15 which repeals section 52 of the Copyright Act, which calls for the deposit of two copies of a book at the time of its publication with the Library of Parliament. This is a responsibility which the National Library undertook on behalf of the Library of Parliament after the fire, and which it has carried on so far, but now that under the National Library Act two copies of all Canadian books are deposited anyhow it is felt that section 52 of the Copy right Act should be repealed. What it brings principally to the library are American publications which are deposited by agents in Canada, and since this does not provide them with any additional protection it was felt that this could now be discontinued.

The Chairman: I should like to point out that Mr. L. E. Levy, Legal Counsel, Department of the Secretary of State, is now with us as a potential witness.

I should also like to say, for the benefit of those senators who are members of the Special Committee on Science Policy, that we have not yet received a brief from the National Librarian. Mr. Sylvestre felt he would be unwise to make a submission to that committee before the report of the Macdonald study was published. I mention this so that the members of the Special Committee on Science Policy will know that Mr. Sylvestre will be appearing before that committee to discuss the present and future activities of the National Library against the background of the recommendations of the Macdonald report.

Senator Carter: Mr. Sylvestre, you mentioned funds for the buying of books. How much money do you have for this purpose? Have your funds been increased recently?

Mr. Sylvestre: No, what I referred to was the fact that the funds available now to libraries generally in Canada are much greater than they used to be. For instance, the book purchase funds of libraries have doubled in the last five years. This means that they acquire a great deal more material than they used to acquire, and this is creating problems for us. We have had to cope recently with such an in-put of accessions reports from all Canadian libraries that in spite of the freeze we had to convince Treasury Board—and we were successful in doing so—that they had to increase the staff of the National Union Catalogue in order to keep it up to date. The accessions for the past year have been coming in at the rate of over 4,400 a day. You can imagine what kind of task it is to keep a file of that size up to date. The file is now in excess of ten million cards, representing 14 million volumes, and we expect that next year the daily accessions will exceed five thousand.

Unfortunately, since we had a ceiling imposed upon us, as all departments had, last year, we decided that we had to curtail the book purchase budget. It was preferable to do this than make a cut in the service we were providing other libraries.

There is another reason why I was not too unhappy about it, and that is although we will need more funds before long, if we are going to build the kind of strong collection that we need, it is a fact that until we have a better idea of what the acquisition policies are of all the other large research libraries in the country—and this we are trying to obtain at the moment through a survey we are conducting of research collections—it is extremely difficult for the National Library to devise a comprehensive acquisitions policy because we are never sure whether little used material that we might acquire would unnecessarily duplicate something acquired elsewhere. When I had to make that decision as to where we should cut I decided we should make a cut in the book purchase accounts.

Senator Carter: How much have you got to spend on books this year, and how does that compare with what you spent last year?

Mr. Sylvestre: Well, I should say that we have a revolving fund, and fortunately we

had some money left over from the previous year. This year we will have approximately $300,000 to spend on books.

Senator Carter: Do you purchase rare books out of that too?

Mr. Sylvestre: We do purchase rare Canadiana. We have not purchased any rare foreign books at this stage because, first of all, it amounts to putting a great deal of money into very few items. We did, in fact, acquire two years ago a great many rare books through the British book gift. You will recall that the British Government decided that its centennial gift to Canada would be a book collection. We have obtained as part of that gift a great many first editions of English authors which are very valuable, and which were not held extensively in Canada. But, fortunately, we did not have to pay for them.

We do have as a first priority the acquisition of everything that has been published in Canada since the introduction of printing. We feel it is a responsibility of the National Library to have in one place in the country a complete collection of Canadian publications.

Senator Yuzyk: Does this include publications in all languages?

Mr. Sylvestre: It does, senator. As I am sure you are aware, Mr. Chairman, early Canadian books are becoming rarer all the time, and more expensive. With the kind of money with which we have been supplied in the last two years by Treasury Board I do not feel that we are really in a position to compete with a great many other libraries in the country, especially university libraries which have book budgets much larger than ours—and a great deal of these budgets comes from the federal purse.

I might mention by way of example that what you see now at book auctions are universities situated in the same province competing one against the other, and paying very high prices for rare books. The National Library cannot obtain these books because two small libraries, in some cases, are bidding for them, and paying two or three times what some of think the books are worth. This is a problem about which we can do nothing at the moment.

Senator Connolly (Halifax North): In common with other members of this committee I think this bill is a good, simple, and very necessary piece of legislation, and I see no reason why we should become picayune about it and waste needless time. I have just one question that I should like to submit to the witness, who I take it is an expect witness. Is there anything wrong with this bill, in any particular?

Mr. Sylvestre: Not in my opinion, Mr. Chairman.

Senator Connolly (Halifax North): That is good enough.

Senator Fournier (Madawaska-Restigouche): What about your floor space, storage space or whatever you call it?

Mr. Sylvestre: It is more than adequate for our present needs. Since I have been given this opportunity to refer to this question I think it is too good to be missed. I am prepared...

The Chairman: It is always dangerous.

Mr. Sylvestre: ...to go on record to say, as you all know, that the plans for the National Library building were made in 1952. Construction was postponed from time to time because of austerity programs and for other reasons. When the library was actually completed in 1967 it was practically identical to the original plans. Everything has grown so much in Canada during these four years that the building will become too small for our needs earlier than expected, especially due to the fact that we share the building with the Public Archives. They are good colleagues and we do not mind having them with us. We enjoy their company, but there is no doubt in my mind that before many years the Government will have to either build another building for the Public Archives or leave the Archives in the building and build another National Library. Alternatively, this is probably the interim solution that will have to be taken and that is to acquire some storage area, possibly outside Ottawa where we could store for much less money than space costs on Wellington Street.

Senator Fournier (Madawaska-Restigouche): What about other space?

Mr. Sylvestre: We have enough right now, but the way things go I do not think we will have enough space in five years.

Senator Yuzyk: Honourable senators are aware that I had nothing against the principle of the bill, as such, in my speech on the bill in our chamber, but I did raise a question

about the implications of clause 4. This is one of the reasons I wanted an explanation, particularly, from the Department of the Secretary of State, and the legal adviser. Clause 4 reads:

> The Minister shall preside over and has the supervision of the management and direction of the Library.

It appears to me that he has tremendous powers here, because it is not only the power of presiding over, which I would not question at all, but the matter of the supervision of the management may mean that the minister can interfere in the internal affairs of the National Library. I am not imputing anything to the present minister, but I would like an explanation of the general powers.

The Chairman: Or to previous ones.

Senator Yuzyk: That is right, but I think for our own benefit we should have a satisfactory explanation of this clause. This is the only clause that I place a question mark after.

Mr. L. E. Levy, Legal Counsel, Department of Secretary of State: With respect to clause 4, the National Library is and has been, since April 30, 1963, a branch designated as a department for the purposes of the Financial Administration Act when an order in council was passed to give it more status than a mere branch of the Government, which it was prior to that date. The library is now regarded as akin to a department, so that the present bill was drafted to conform to the style now used in drafting departmental acts in which you provide for a minister and then for a deputy minister who reports to the minister.

Senator Yuzyk: Could you name some of these acts, please?

Mr. Levy: Yes, I will get to that. In the usual case of a departmental act, it is provided that the minister presides over and has the management and direction of the department. In this bill, instead of giving the minister the actual management and direction, it has been provided that the minister presides over and has the supervision of the management and direction which makes it a little less direct than giving the minister the actual management and direction.

Our reason for this is a question of Government policy as to the manner in which the National Library is to be treated, but I should point out that unlike the CBC, for example, the National Library does not originate information, but merely collects it and makes it available in its original form on request to other libraries, educational institutions and other departments. It is somewhat analogous to the Department of Supply and Services. The National Library will be given a coordinating function which might be most difficult to achieve if it were removed completely from ministerial supervision and given similar independence as a Crown corporation.

A library is, in essence, a department and departments are presided over by ministers. As I mentioned, clause 4 of the bill is similar to the provisions of all the new acts setting up departments with the exception that the particular language used makes the minister more remote from its day-to-day operations than in the ordinary case of a minister presiding over and having the management and direction of a department, rather than presiding over and having the supervision of the management and direction.

Now, I can give you other examples of branches designated as departments. Section 3 of the Public Archives Act provides that:

> The Governor in Council may appoint an officer to be called the Dominion Archivist who shall have the rank and salary of a Deputy Head of a department and, under the direction of the Minister, shall have the care, custody and control of the Public Archives.

Section 3 of the National Film Act provides:

> For the purposes of this Act and subject to its provisions, the Minister shall control and direct the operations of the National Film Board.

Section 5 of the Royal Canadian Mounted Police Act provides:

> The Governor in Council may appoint an officer to be known as the Commissioner of the Royal Canadian Mounted Police who, under the direction of the Minister, has the control and management of the force and all matters connected therewith.

Dominion Bureau of Statistics—section 3 of the Statistics Act provides in part:

> There shall be a bureau under the Minister, to be called the Dominion Bureau of Statistics, the duties of which are...

The Chairman: I am sure, Senator Yuzyk, you have enough now.

Mr. Levy: The National Arts Centre is a Crown corporation, but not an agency. In that situation you have the ministerial reports to Parliament for the Board of Trustees, which are the departmental acts now, if you look at the Government Organization Act. I do not have a copy of it with me. It provides that "There shall be a department of the Government of Canada called the Department of... over which the minister shall preside."

Senator Cameron: In effect, it is a *pro forma* regulation.

Mr. Levy: Yes, it is.

Senator Yuzyk: This is what I wanted to be satisfied about.

The Chairman: We will have to establish the Library on the basis of a Crown corporation.

Senator Yuzyk: This was the alternative; is that not right?

Mr. Levy: Yes, it is, sir. If you do not use the departmental form you have to get into the Crown corporation form.

Senator Yuzyk: I understand that there is an advantage here in that libraries of other Government departments can be brought in under the supervision and control of the National Library. Am I interpreting that correctly?

Mr. Sylvestre: Mr. Chairman, not quite. This would amount, I am afraid, to giving the National Library the kind of control which would not be acceptable to other departments. What the bill provides is, under the direction of the Governor in Council, to make it possible for the National librarian, under such directions as the cabinet may design, to coordinate better the Government library services. This means that it has to be done on a voluntary basis to some extent. There may be cases where one may have to force something upon someone, because it would be the obvious thing to do.

Senator Yuzyk: The National librarian would have to be a diplomat.

The Chairman: Yes. He is.

Mr. Sylvestre: What we hope to achieve is to demonstrate to the other public libraries that we can assist them better than we have done in the past, by having closer liaison, more assistance, more compatibility.

With the introduction of electronic media in the processing of bibliographic information, if you do not achieve that kind of compatibility you are going to spend a great deal more money than would be necessary otherwise, and you would not provide for the fullest interchange of information as between these libraries.

The moment you go into computers, if computers cannot speak to one another and you have to interfere manually to see that what one has to say to the other is interpreted, you have real problems and you defeat the very purpose for which you try to introduce automation into your system.

We hope to be able to demonstrate that we can assist the other libraries by putting them in a better position to use the services which we can provide for them.

Senator Yuzyk: Mr. Sylvestre, are you finding that you are getting the co-operation of libraries in other departments in this respect?

Mr. Sylvestre: Indeed we do, and it works both ways. The National Library does not collect in every field and we have recourse to other libraries for required material that we do not have, and we borrow from other libraries, as we lend to them. This is not only the case with government libraries, but we do borrow and lend throughout the country and often abroad. For instance, last year we had more than 2,000 reference questions dealing with Canadian subjects, from foreign libraries. The library has also an international dimension.

The Chairman: There has to be co-operation, of course, but the government libraries do not have the same purpose as the National Library.

Senator Yuzyk: There has to be co-operation. Is there a good spirit of co-operation?

Mr. Sylvestre: Indeed there is.

Mr. Levy: I might add, senator, that this is subject to the direction of the Governor in Council, so if it should happen that there was not the co-operation there should be, the Governor in Council could direct that certain things be done or not be done.

The Chairman: That could be done if it was a Crown corporation.

Senator Yuzyk: What if some of the librarians of other departments did not like the present Secretary of State and decided to try to baulk him in some way. He has not got any powers, of course, that he can impose upon them at all.

The Chairman: We have to leave a few powers to those poor ministers.

Senator Yuzyk: I think the ministers have powers. The only other question I have is this. Is the co-operation between the Library of Parliament and the National Library good? They have been working very closely, hand in hand, but since this is a new piece of legislation, would it be all right to ask our National Librarian what he thinks about this advisory council?

The Chairman: Senator Yuzyk, I think this is not really directly related to this bill and since you are a member of the other committee, you could put that question to Mr. Sylvestre when he submits his brief and appears before the other committee.

Senator Yuzyk: Very well, I will withdraw the question.

The Chairman: It would be more directly related to the other question than to this one.

Senator Carter: Clause 8 deals with agreements. Is that something new or is it an extension of powers he already has?

Mr. Sylvestre: No, this is new, Mr. Chairman. Under the present act the National Librarian has no authority to enter into agreements with other libraries. Everything we do is on a voluntary basis. We exchange information and we exchange books. We give away books to other libraries. The National Library is a clearing house for duplicate material. This is a very valuable service we provide. We redistribute to Canadian libraries, to which we send lists of duplicates, a great deal of material which otherwise would be lost.

Senator Cameron: Is the Banff School eligible to get these discount books?

Mr. Sylvestre: I understand these go to four libraries which are considered to be the most important libraries in the country. This does not mean necessarily those that need them most, but since there are 6,000 libraries in Canada it would be impossible to manage a distribution over such a large area.

Senator Cameron: I have two short questions, though they may be somewhat late. One is in regard to space and the planning of space. In the University of Alberta we built three new libraries in the last few years and made provision for another one, knowing how long it takes from the time the necessity is put on the record or until the actual square footage is built.

I am wondering if you set a target date when we should be starting to build the next extension. That is the first question.

Mr. Sylvestre: The answer to the question is, no, because we do not know with enough precision ourselves. We have already indicated to Public Works that this need will exist within the next two years.

The Chairman: You will be in a much better position to arrive at some kind of planning when your survey is completed.

Senator Yuzyk: You will have to convince the minister in this case, is that not right?

The Chairman: He would have to convince the minister even if the National Library were a Crown corporation.

Mr. Levy: It would be even more relevant to say that the minister would have to convince the Treasury:

The Chairman: Also.

Senator Cameron: Is the National Library doing anything about the collection of oral history? I am thinking of recordings of speeches of great men.

Senator Yuzyk: For posterity.

Senator Cameron: I think the Film Board has started to do a little and possibly the C.B.C. It is important, in terms of preserving the feeling and coulour of the era and age, that we record these and keep them for posterity. This may be done on microfilm, and so on. Has any start been made, as far as the National Library is concerned?

Mr. Sylvestre: There has been an attempt made but not by the National Library. There are two areas of collecting which a great many national libraries in the world do. One of them is film and the other is this type of historical material. In Canada this responsibility was given to the Public Archives and they do collect both oral history and film. So it is being preserved by the national institutions.

Senator Macdonald: Mr. Chairman, I want to point out to my friend, Mr. Sylvestre, that certain books are hard to come by these days, and when the National Library gets hold of them they ought to make photo copies of them. I can give you one example of what I mean. Several weeks ago Senator D'Arcy Leonard asked me if I knew of a history of the early French settlers in Prince Edward Island. I told him I had never seen one but would find out for him. Well, there was one, but it wasn't in P.E.I. or in the National Library. Of all places, it was found in the library in Quebec and was delivered to me here by the people from the National Library. Unfortunately, when I got the book Senator Leonard was abroad and by the time he returned I no longer had the book.

What I want to know is whether you people can obtain copies of such books for your own library, or, if you cannot do that, whether you can make copies of them.

Mr. Sylvestre: Well, senator, you know that printing began in Canada in 1752 and the National Library was only established in 1950. It is only fortunate for us that we had the advantage of receiving from the Library of Parliament very large collections of books which were considered to be no longer required for the purposes of Parliament. A great many of these were duplicates. But before we succeed in buying back everything that was printed in Canada before we were established, a great many years will have elapsed. It is a very long-term project. I might say that any time we see Canadian books coming up for sale anywhere, that is, books we do not have, we make every effort to acquire them. That is a process that goes on every day. But the number of books published in Canada since the introduction of printing is now in excess of 100,000 titles and, obviously, it will take a number of years before we manage to collect everything.

Senator Macdonald: Incidentally, the interesting book I was referring to was written by Dr. Blanchard of Prince Edward Island. Can you not get copies of that book in your library?

Mr. Sylvestre: I am afraid I do not know if we have a copy in our library, although I am certain there is one in the Library of Parliament.

Senator Macdonald: No, there is not. I pursued that, and it was only after Senator Leonard pushed the matter that the book was brought up from the Quebec library.

Mr. Sylvestre: Well, senator, I could mention that a bibliography was published several years ago containing a great number of titles, the exact number of which I cannot remember at the moment. Practically all of them are rare and they date back as far as the introduction of Canadian printing in Halifax in the 1700s. We have microfilmed all of these and the complete microfilm library of these can be bought from the National Library for $175. Of course, to buy the hard-covered versions of these would cost a fortune. However, we cannot do everything at once.

Mr. Levy: With respect to photocopying or Xeroxing books, senator, or techniques of that type, there is in this country the question of copyright which subsists for the life of the author plus 50 years. If the author has been dead more than 50 years, you can copy at will. If he is alive or has been dead less than 50 years you have to get permission from the copyright holder to photostat these books. With respect to the particular book you have referred to, I have been given to understand that Dr. Blanchard has been dead only a few years. So unless we are authorized by the inheritors of his estate, we cannot photocopy that book because it would be violating the copyright which still survives.

Senator Yuzyk: With the understanding that the minister, the Secretary of State, is a benevolent president of the National Library, I think that we should complete this meeting by approving the bill as we have it before us.

The Chairman: Shall I report this bill to the Senate without amendment?

Hon. Senators: Agreed.

The committee adjourned.

The Queen's Printer, Ottawa, 1969

First Session—Twenty-eighth Parliament

1968-69

THE SENATE OF CANADA

PROCEEDINGS

OF THE

STANDING SENATE COMMITTEE

ON

HEALTH, WELFARE AND SCIENCE

The Honourable HARRY HAYS, *Acting Chairman*

No. 3

WEDNESDAY, JUNE 11th, 1969

Complete Proceedings on Bill C-153,

intituled:

"An Act to amend the Historic Sites and Monuments Act".

WITNESS:

Department of Indian Affairs and Northern Development: John Nichol, Director, National and Historic Parks Branch.

REPORT OF THE COMMITTEE

29884—1

THE SENATE COMMITTEE ON HEALTH, WELFARE AND SCIENCE

The Honourable Maurice Lamontagne, *Chairman*

The Honourable Senators:

Belisle
Blois
Bourget
Cameron
Carter
Connolly (*Halifax North*)
Croll
Denis
Fergusson
Fournier (*De Lanaudière*)
Fournier (*Madawaska-Restigouche*)
Gladstone
Hays
Hastings
Inman
Irvine
Kinnear
Lamontagne
Macdonald (*Cape Breton*)
McGrand
Michaud
O'Leary (*Antigonish-Guysborough*)
Phillips (*Prince*)
Quart
Robichaud
Roebuck
Smith (*Queens-Shelburne*)
Sullivan
Thompson
Yuzyk—(30)

Ex Officio Members: Flynn and Martin

(Quorum 7)

ORDER OF REFERENCE

Extract from the Minutes of the Proceedings of the Senate, Wednesday, June 4th, 1969:

Pursuant to the Order of the Day, the Senate resumed the debate on the motion of the Honourable Senator Fergusson, seconded by the Honourable Senator Inman, for the second reading of the Bill C-153 intituled: "An Act to amend the Historic Sites and Monuments Act".

After debate, and—
The question being put on the motion, it was—
Resolved in the affirmative.

The Bill was then read the second time.

The Honourable Senator Fergusson moved, seconded by the Honourable Senator Inman, that the Bill be referred to the Standing Senate Committee on Health, Welfare and Science.

The question being put on the motion, it was—
Resolved in the affirmative.

ROBERT FORTIER,
Clerk of the Senate.

29884—1½

MINUTES OF PROCEEDINGS

WEDNESDAY, June 11, 1969.
(3)

Pursuant to notice the Standing Senate Committee on Health, Welfare and Science met this day at 10.30 a.m.

Present: The Honourable Senators Cameron, Carter, Denis, Fournier (*Madawaska-Restigouche*), Gladstone, Hays, Inman, Irvine, Kinnear, Quart and Robichaud.—(11)

Upon motion duly put, the Honourable Senator Hays was elected *Acting Chairman.*

Upon motion, it was *Resolved* to print 800 copies in English and 300 copies in French of the proceedings of the Committee on Bill C-153.

Bill C-153, An Act to amend the Historic Sites and Monuments Act, was considered.

The following witness was heard:

DEPARTMENT OF INDIAN AFFAIRS AND NORTHERN DEVELOPMENT:
John Nichol, Director, National and Historic Parks Branch.

Upon motion, it was *Resolved* to report the said Bill without amendment.

At 11.05 a.m. the Committee adjourned to the call of the Chairman.

ATTEST:

Patrick J. Savoie,
Clerk of the Committee.

REPORT OF THE COMMITTEE

WEDNESDAY, June 11, 1969.

The Standing Senate Committee on Health, Welfare and Science to which was referred the Bill C-153, "An Act to amend the Historic Sites and Monuments Act", has in obedience to the order of reference of June 4th, 1969, examined the said Bill and now reports the same without amendment.

All which is respectfully submitted.

HARRY HAYS,
Acting Chairman.

STANDING SENATE COMMITTEE ON HEALTH, WELFARE AND SCIENCE

EVIDENCE

Ottawa, Wednesday, June 11, 1969

The Standing Senate Committee on Health, Welfare and Science, to which was referred Bill C-153, An Act to amend the Historic Sites and Monuments Act, met this day at 10.30 a.m. to give consideration to the bill.

The Clerk of the Committee: Honourable senators, I have to advise you that the chairman will not be present this morning. Is it your pleasure to elect an acting chairman?

Senator Robichaud: I move that Senator Hays act as chairman of this meeting.

Senator Cameron: I second that motion.

The Clerk of the Committee: Is it agreed that Senator Hays be acting chairman?

Hon. Senators: Agreed.

Senator Harry P. Hays (Acting Chairman) in the Chair.

The Acting Chairman: Honourable senators, we have before us for our consideration this morning Bill C-153, an Act to amend the Historic Sites and Monuments Act. Is it your wish that a record be made of the committee's proceedings?

Upon motion, it was *resolved* that a verbatim report be made of the proceedings, and to recommend that 800 copies in English and 300 copies in French be printed.

The Acting Chairman: We have as a witness this morning Mr. John Nicol, the Director of the National and Historic Parks Branch of the Department of Indian Affairs and Northern Development. Will you proceed, Mr. Nicol?

Mr. John Nicol, Director, National and Historic Parks Branch, Department of Indian Affairs and Northern Development: Mr. Chairman, Senator Fergusson outlined in the Senate the other day the real meat of this bill to amend the Historic Sites and Monuments Act. The bill really provides for housekeeping arrangements so that there will be a wider representation on the Board, and a more reasonable per diem allowance paid to the members of the Board while engaged on the Board's business.

I might say that the Board has had a tremendous influence over the period of its existence in the determination of those things in which the federal Government should involve itself in the way of designating the importance, national or otherwise, of various submissions that come forward. To give you an idea of the workload of this board I will say that at the last meeting in early May 75 submissions were put to the board. At the previous meeting last fall there were 85 submissions.

Last year the Board undertook to have two meetings a year in order to keep up with the work. This is a manifestation of the interest of the people of Canada in the history of Canada.

During the debate on the motion for the second reading of this bill in the Senate the matter of the commemoration of the birth places of famous Canadians outside of Canada was discussed. Some time ago, before the historic sites and monuments policy was prepared, this matter was submitted to the Board for its view. A document was tabled in the House of Commons, and the subject was given very careful consideration. There are two aspects to the matter. One is that most of our early famous Canadians were born outside of Canada, and the second is that their importance from a national historical point of view arises from their activities in Canada. There is some question as to whether the fact that they were born in another country is of national historical importance.

The second matter is one of finance and logistics, which inevitably comes into this type of thing. It was felt, because there was so much more that had to be done in Canada, that we should restrict our activities to within the boundaries of the country. I cannot say what some future policy will be, but this is the policy we are following at the moment.

I think that that is all I have to say in the way of general remarks, Mr. Chairman.

Senator Fournier (Madawaska-Restigouche): Mr. Nicol, you mentioned that at your last meeting you had 75 applications, and at the meeting before that you had 85 applications. How many of those 75 applications would be new applications? Were they all new applications, or were some applications that were carried over?

Mr. Nicol: No, they are not all new applications, Mr. Chairman. There are some applications that are considered by the Board two or three times. Sometimes the Board defers its decision until it feels the research information, on which it bases its decision, is complete. In other cases, especially those concerning historic buildings, the Board has a real problem in having studies made to determine whether a building really is of historical significance from an architectural point of view. The Board may consider a submission two or three times in such an event, but this is not the ordinary course of events. I am told that there were only two subjects that were carried over.

Senator Carter: What criteria do you use? I know of several applications that have been turned down because they were not thought to be of sufficient historical significance. However, they are of sufficient historical significance to the people of the particular region or province. When the matter is taken further afield, and people sit around a table up here in Ottawa to discuss it, a different set of values seems to be applied. I would like to know what your criteria are.

Mr. Nicol: Mr. Chairman, I do not think that at any time the Board has said that an area is not of historical significance. What it has said is that an area is not of national historical significance. There are areas, sites, and people which are of very great importance regionally, and then there are others that are of historical significance from the point of view of the provincial Government, and then there are others that are of national significance. The Board has a criteria subcommittee which considers various criteria which will be used in judging these things.

The Board consists of members from each province, and Ontario and Quebec each have two members. So, there is regional representation.

This is not an easy problem, and despite the fact that one of the members of the Board is present today I will say quite frankly that I feel Canada gets a great deal for its money from these board members. It is their view upon whether a matter is of national, provincial, or regional significance that the minister is looking for when he makes submissions to them for their consideration.

Senator Carter: But they must have some guidelines, and this is what I really want to know. How do you draw a line between what is regional and what is national. Very often the thing hinges on the age of a building, and age is not limited to regions or anything else.

Mr. Nicol: It depends upon whether the building is historic from usage or from architecture. From the point of view of usage they have pretty well developed a *modus operandi*. So far as people are concerned the Board considers whether they are significant nationally, provincially, or regionally. They are in some difficulty at the moment when they are concerned with a building that is important from the point of view architectural history—that is a bad phrase, but perhaps I can use it—because we do not have sufficient comparative information right now. The board does have considerable trouble with such buildings.

The department proposes to accelerate the program for a national architectural inventory which will review all the buildings in Canada, and measure, describe, and photograph those that are typical of a certain style of architecture, history, or some criteria that makes them somewhat more outstanding than others. However, budgets are budgets, sir, and...

Senator Carter: Yes. I know of a lighthouse, and a lighthouse, of course, is of pretty well standard architecture—that was probably the first in Canada. It dates back so far that James Cook, the great navigator, marked it on his charts, and it has served as a landmark all down through the ages. There came a time, of course, when it became obsolete, and the Department of Transport decided not to spend any more money on it. A fence was built around it, and it was left. But, here is something that is a part of history, and yet the Board decided it was not a historic building. I should like to know the reasons why it was turned down. The architectural rule cannot be applied to such a building.

Mr. Nicol: Perhaps if I could have more particulars as to this lighthouse then I might be able to supply you with the information at a later time. Actually, the first lighthouse in

Canada, I believe, was at Louisbourg. It sat across the harbour from the fortress of Louisbourg.

The Acting Chairman: Mr. Nicol, you say that there is regional representation on the Board. Would it be up to the representative from that region to make the recommendation, and is it possible that this may never have got to Ottawa?

Mr. Nicol: Every submission that is made through the Department, whether made through a member of Parliament, a senator, or a private individual, is examined. Apart from those that are obviously frivolous, or that really have no meaning, all are researched by our historical and archaeological staff, and all of this research is placed before the Historic Sites and Monuments Board at one of its meetings.

Mr. Chairman, one problem the Board does face often is in the fact that the folklore of Canada does not always agree with the history of Canada. There are certain things in the textbooks of the primary schools which, in effect, are not entirely correct. This is because some of the writers of the older textbooks were not privy to the great amount of research that has been done in the historical field in the last 15 years. In this time we have made tremedous advances. We feel that the Canadian citizen is very interested in the historic sites and monuments. According to our attendance records, our historic sites and monuments were visited by 2.5 million people, whereas ten or fifteen years ago they were visted by less than half a million people.

The Acting Chairman: Is this information for which Senator Carter asks available to the public, or is it privileged information? I am referring to the reasons why a site is turned down.

Mr. Nicol: Normally, the only reason why a site is turned down is because in the opinion of the Board it is not of national or historic importance, Mr. Chairman. This is why the Board is asked to review at its meetings the question of whether a site or a building is of national historic importance. The Board from time to time does make recommendations to the minister beyond that simple statement, but those are cases of where the members have definite views as to how the thing should be handled.

Senator Carter: Does not the Board change its opinion from time to time as the personnel of the Board is changed? I can cite Castle Hill in Placentia, Newfoundland, the old capital, and also Signal Hill. The history of these places goes back further than that of many historic sites on the mainland. Yet, it took about 17 years for a decision to come down that these were of historic significance.

Mr. Nicol: Mr. Chairman, I am not entirely familiar with the detail of why it was not put before the Board before that. I might suggest that one possible reason is that it was never raised with the minister or with the Board until that time.

The Acting Chairman: It was after Confederation.

Mr. Nicol: Of course, before Confederation we had nothing to do with it.

Senator Carter: I think it was raised pretty soon after Confederation. I do not know whether it went through the right channels, but I do know that 17 years passed by before somebody decided it was of national historic significance.

Mr. Nicol: There is one other aspect—and here I would be only hazarding an educated guess—and that is that all of these things do not go before the Board immediately following the referral because there is a very substantial amount of research undertaken before the matter is presented to the Board. In other words, we want to be sure.

Senator Carter: Does it depend upon the case that is made and presented? The Board does not do any research work, or verification of facts. It is rather like having a lawyer present your case in court—it depends upon whether you have a good lawyer or not.

Senator Fournier (Madawaska-Restigouche): You have to be a good salesman.

Senator Robichaud: Is it not a fact that there is always the financial aspect to be considered? In respect of these two sites in particular, I am aware that there have been expenditures on the part of the federal Government, and it may have taken time for those expenditures to be authorized.

Mr. Nicol: Well, after the Board has decided to recommend that a site or a person is of national historic importance, it then falls to the lot of the National and Historic Parks Branch to prepare a plan to indicate how this historic event is to be demonstrated. There is, of course, the matter of acquisition of land in

many cases, and this is followed by the question of whether we are going to restore, stabilize, or reconstruct, and then there is the whole matter of interpretation which requires further research. With the staff and the budget that is available to the branch, I think Canada is getting a good bargain.

Senator Fournier (Madawaska-Restigouche): Do you operate under a budget?

Mr. Nicol: Yes, sir.

Senator Fournier (Madawaska-Restigouche): Do you have a limited budget for the year?

Mr. Nicol: Yes.

Senator Fournier (Madawaska-Restigouche): Would you give us some figures?

Mr. Nicol: I can give you the figure for the current year, which is $7,175,000 for the historical program. This is broken down into $3,845,000 for capital expenditure, and $3,330,000 for operation and maintenance. So that you can make a comparison, ten years ago the total budget for the history side of our branch operation was slightly less than $1 million.

Senator Fournier (Madawaska-Restigouche): That is why it took 17 years to get Senator Carter's project recognized.

Senator Carter: The more money, the more historical significance.

Mr. Nicol: It was about ten years ago that the historical program was really accentuated, and this stemmed from the interest of Canadians in the approaching centennial year. We have had some of these historic sites since the First World War, and the main activity was in cutting the grass, putting up a few signs, and letting people walk around. Ten years ago we did a major overhaul of the historic sites, and we have been increasing their budgets very substantially.

In 1960-61, for instance, we embarked upon the program at the fortress of Louisbourg which has cost roughly $1.5 million a year. I think it is going to be—and this is not my private opinion—one of the most spectacular restorations in North America. Here was a town of 10,000 people which the attacking forces reduced to rubble, and which is now rising in all its grandeur. The main building, the Chateau St. Louis, in length is 60 feet less than the building in which we are at the present moment. It is now up, and we are furnishing it.

Senator Fournier (Madawaska-Restigouche): What is the cost, roughly, of the administration of the department as against the actual money you spend on the projects. Is your administration cost high?

Mr. Nicol: I have national parks as part of my responsibility as well as historic parks and sites, but we are working on an overhead of something like ten per cent.

Senator Quart: First of all, I have a question to ask for Senator Carter who has been called out of the room, and after that I have a question of my own. Senator Carter wants to know when this per diem allowance of $20 was established.

Senator Cameron: It was quite a while ago, I guess.

Mr. Nicol: Yes, it was established in 1955.

Senator Quart: My question concerns not lighthouses but graveyards, and in particular the grave of Calixa Lavallée which is in a cemetery in Montreal. Has anything been done about it? After all, Calixa Lavallée was a Canadian, and the composer of the only official part of our national anthem—the music. I know that his grave was in a very dilapidated condition in some cemetery in Montreal a couple of years ago. Is it proposed to do anything about it?

Mr. Nicol: Mr. Chairman, I wonder if I could supply that information later to the senator. I am informed that the Board recommended a commemoration.

Senator Quart: Even in the research that was carried out in the National Library there was an error, which was brought to my attention. I know this from the person who did some extra research on the matter. It seems to me that the least that can be done is to clean up the grave, or something like that. I know that some people who went to the cemetery found it very difficult to locate the grave of Calixa Lavallée. I have not been asked by any organization to ask you this question, but I do feel that something should be done about it.

Mr. Nicol: Calixa Lavallée has been judged to be a person of national historic importance, but what we have not got with us is the information as to how the commemoration will take place. Perhaps we might examine your suggestion that something in connection with the grave might well be the form of commemoration.

Senator Quart: I can get you details of where the cemetery is. I have a photograph of the grave, and it is not at all complimentary to a composer of Lavallée's stature. As a matter of fact, he had to leave Canada and go to the States in order to be recognized.

Senator Carter has returned, and I will turn the matter of the $20 a day over to him.

Senator Carter: Yes, I was interested in knowing when the per diem allowance of $20 was established.

Mr. Nicol: It was in 1955, I believe, senator.

Senator Cameron: What relationship exists between the Historic Sites and Monuments Board and similar organizations which are doing very good work in some of the provinces? Is there a close working liaison between them?

Mr. Nicol: There is a close working relationship between the branch and the provincial boards. In the case of Ontario, for instance, we are invited to attend at least one meeting of their historical and archaeological board every year. We have a direct liaison from the branch point of view with the various organizations in the provinces, and at the same time each board member has a continuing direct relationship with the various organizations in his province, and on occasion he has led the discussions with the province on a matter in which the Board has concerned itself.

Senator Cameron: I presume there would be provision for the information on regional or provincial historic sites to be incorporated in the national literature?

Mr. Nicol: This is a desirable thing. At the moment we have not moved in this direction, but this again comes down to a matter of money and people, in that order. I think, Mr. Chairman, that Senator Cameron is aware of the number of people it takes to research a subject properly. The shortage of trained people has been a continuing problem with us.

Senator Fournier (Madawaska-Restigouche): Mr. Nicol, are you satisfied that your budget is sufficient? I ask this question because these memorial sites are great tourist attractions. The federal Government and the provinces are making great efforts to attract tourists, and tourists take a great interest in these memorial sites. I think we should spend a little more money in developing these sites, and in producing publications that can be distributed to the tourists. Many tourists who come to Canada do not know where these sites are.

Mr. Nicol: That is correct. Several years ago Ontario made a study of the preferences of tourists entering that province, and it was found that historic sites ranked third or fourth. We do work very closely with the provincial tourist bureaus, and also the Canadian Tourist Association, of which one of our assistance directors is a director. We have been conscious of this, and the provincial tourist bureaus mention the historic sites, both national and their own, quite liberally in their literature.

Dr. Peter Waite, Member, Historic Sites and Monuments Board: I should like to answer a question raised by Senator Carter a while ago. He mentioned the problem of distinguishing between local and national historic sites. This is a difficult question. I can cite the example of one of the recent decisions of the Board in connection with the Boyd house at Peterborough. The Board decided this house was not of national historic significance, although it was of great significance locally in the lumber trade. This has to be contrasted with the house at Pointe Fortune which had great connections with the fur trade. We decided—and I hope correctly—that the house at Pointe Fortune was of national historic significance because it was owned by a fur trader, and it met every criteria to qualify it to be described as being of national historic significance. The Boyd house at Peterborough had no architectural interest. Although it was of local historic interest, the Board regretfully decided that it had no national historic significance.

Senator Quart has raised the queston of Calixa Lavallée's grave. The Board depends heavily upon the initiative of local members, and in some cases such things are overlooked. In the case of the lighthouse in Newfoundland, there is no doubt that if the Newfoundland member brings it to the attention of the Board, the Board will consider it.

Senator Denis: Mr. Nicol, do you have any figures as to how many sites you have in each province?

Mr. Nicol: I have the figures of how many sites we have, but they are not separated as to national historic parks and national historic sites—the difference being mainly in how they are created, and not in their importance. A national historic park is created under the

National Parks Act, and a national historic site is created under the Historic Sites and Monuments Act. There are 44.

Senator Denis: Perhaps you can give us that information at a later time.

The Acting Chairman: Is it agreed that I report the bill?

Hon. Senators: Agreed.

The committee adjourned.

The Queen's Printer, Ottawa, 1969

Second Session—Twenty-eighth Parliament

1969-70

THE SENATE OF CANADA

STANDING SENATE COMMITTEE

ON

HEALTH, WELFARE AND SCIENCE

The Honourable MAURICE LAMONTAGNE, P.C., *Chairman*

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OF PROCEEDINGS

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Second Session—Twenty-eighth Parliament

1969

THE SENATE OF CANADA

PROCEEDINGS
OF THE
STANDING SENATE COMMITTEE
ON

HEALTH, WELFARE AND SCIENCE

The Honourable MAURICE LAMONTAGNE, *Chairman*

No. 1

WEDNESDAY, DECEMBER 3rd, 1969

First Proceedings on Bill S-12,

intituled:

"An Act to Prevent the Introduction into Canada of Infectious and Contagious Diseases."

WITNESSES:

Department of National Health and Welfare: Dr. W. H. Frost, Senior Medical Adviser, Medical Services; J. D. McCarthy, Director of Legal Services.

21310—1

THE SENATE COMMITTEE ON HEALTH, WELFARE AND SCIENCE

The Honourable Maurice Lamontagne, *Chairman*

The Honourable Senators:

Belisle	Fournier (*Madawaska-Restigouche*)	Michaud
Blois	Gladstone	Phillips (*Prince*)
Bourget	Hays	Quart
Cameron	Hastings	Robichaud
Carter	Inman	Roebuck
Connolly (*Halifax North*)	Kinnear	Smith
Croll	Lamontagne	Sullivan
Denis	Macdonald (*Cape Breton*)	Thompson
Fergusson	McGrand	Yuzyk—(28)
Fournier (de *Lanaudière*)		

Ex officio Members: Flynn and Martin

(Quorum 7)

ORDER OF REFERENCE

Extract from the Minutes of the Proceedings of the Senate, Tuesday, December 2nd, 1969:

"Pursuant to the Order of the Day, the Senate resumed the debate on the motion of the Honourable Senator Smith, seconded by the Honourable Senator Martin, P.C., for the second reading of the Bill S-12, intituled: "An Act to prevent the introduction into Canada of infectious or contagious diseases".

After debate, and—
The question being put on the motion, it was—
Resolved in the affirmative.

The Bill was then read the second time.

The Honourable Senator Smith moved, seconded by the Honourable Senator Gouin, that the Bill be referred to the Standing Senate Committee on Health, Welfare and Science.

The question being put on the motion, it was—
Resolved in the affirmative."

ROBERT FORTIER,
Clerk of the Senate.

21310—1½

MINUTES OF PROCEEDINGS

WEDNESDAY, December 3rd, 1969.
(1)

Pursuant to notice the Standing Senate Committee on Health, Welfare and Science met this day at 3.00 p.m.

Present: The Honourable Senators Cameron, Carter, Denis, Fergusson, Fournier (*de Lanaudière*), Fournier (*Madawaska-Restigouche*), Gladstone, Hays, Inman, Kinnear, Lamontagne (*Chairman*), Macdonald (*Cape Breton*), Martin, Michaud, Quart, Roebuck, Smith, Sullivan, Thompson and Yuzyk. (20)

Present but not of the Committee: The Honourable Senators Giguère and Grosart.

In Attendance: E. Russell Hopkins, Law Clerk and Parliamentary Counsel.

Upon Motion, it was *Resolved* to print 800 copies in English and 300 copies in French of the proceedings of the Committee on Bill S-12.

Bill S-12, "An Act to prevent the introduction into Canada of infectious or contagious diseases", was considered.

The following witnesses were heard:

Department of National Health and Welfare:
Dr. W. H. Frost, Senior Medical Adviser, Medical Services.
J. D. McCarthy, Director of Legal Services.

After debate and upon Motion, it was *Resolved* that further consideration of the said Bill be postponed.

At 4.25 p.m. the Committee adjourned until Wednesday, December 10th, at 2.00 p.m.

ATTEST:

Patrick J. Savoie,
Clerk of the Committee.

STANDING SENATE COMMITTEE ON HEALTH, WELFARE AND SCIENCE

EVIDENCE

Ottawa, Wednesday, December 3, 1969

The Standing Senate Committee on Health, Welfare and Science, to which was referred Bill S-12, to prevent the introduction into Canada of infectious or contagious diseases, met this day at 3 p.m. to give consideration to the bill.

Senator Maurice Lamontagne (*Chairman*) in the Chair.

The Chairman: Honourable senators, before we proceed to discuss Bill S-12, I should like to have the usual resolution for the printing of our proceedings in both English and French.

Upon motion, it was *resolved* that a verbatim report be made of the proceedings, and to recommend that 800 copies in English and 300 copies in French be printed.

The Chairman: I am not an expert in this kind of legislation, as in many others, since I am only a humanist, Senator Sullivan, so I am entirely in your hands. Do you wish to proceed section by section, or would you like us to start by questioning our two witnesses, Dr. W. H. Frost, the Senior Medical Consultant to the Medical Services Division, Department of National Health and Welfare, and Mr. J. D. McCarthy, the department's Director of Legal Services?

Senator Roebuck: Let us have a statement from the witnesses. That is usually most effective. They have heard the discussion that went on in the Senate.

The Chairman: I understand that Dr. Frost has not had an opportunity to review our discussion in the Senate chamber, because he has just returned from Quebec City where he was immersed in French. Would you like to make some kind of general statement?

Senator Sullivan: Mr. Chairman, as I was the only one to participate in the debate, besides the sponsor, it might expedite matters to deal with the questions I asked and the suggestions I made, unless you want to take them up as you go through the bill item by item.

The Chairman: Senator Roebuck has suggested that our witnesses make some brief general statements, and then we could proceed as you suggest.

Dr. W. H. Frost, Senior Medical Consultant to the Medical Services Division, Department of National Health and Welfare: The old Quarantine Act was passed at the first session in 1867, and it has been changed a number of times since, but not recently. It referred to conveyances, but this definition was a bit in doubt because aircraft did not exist at the time the original legislation was enacted. The word "vessel" was defined as including ships and we sort of modified what came after it. We wonder whether or not this actually includes aircraft, although aircraft are mentioned in rather lengthy quarantine regulations. In drafting a new act it was hoped to write as much of the procedure as possible into it and then leave to regulations those things that may change from time to time, such as the list of diseases. If similar treatment comes out for a quarantine disease which is presently on the schedule, then it may be advisable to remove it because the disease may not be as serious, in view of some new future treatment, and also the methods of quarantine. Whereas we used to depend almost exclusively on isolation, now we depend on means to control the spread, such as rats on ships which spread plague, lice which spread typhus fever, mosquitoes which spread yellow fever and fleas which spread plague. Our methods today are those designed to control vectors. Other methods in quarantine are those which control diseases such as smallpox through immunity. There is still a great deal of smallpox in the world and

our only defence, with the rapid means of travel today, is through vaccination procedures, making individuals immune.

Vaccinations are carried out all over the world, not just in Canada. We recognize certificates on forms approved by the World Health Organization, health authorities or physicians in every country. Under the World Health regulations it is required that the certificates be stamped by the health authorities, and in so stamping the health authorities recognize that the vaccinations were carried out by qualified persons. This procedure is also carried out in Canada. We stamp certificates for travellers, and the local health departments also stamp certificates. That is, the International Certificate of Vaccination may be stamped by any health department, federal, provincial, or local. In so stamping they recognize that the vaccination was carried out by a qualified person. This is one reason why we have not attempted to specify who should carry out the vaccinations, it being more or less out of our control as to what goes on in a foreign country or in some part of this country, under a local jurisdiction. Another reason why we have not specified who should carry out vaccinations is that we have conveyances arriving in many small hamlets where there are no doctors, only nurses. Sometimes there isn't even a nurse, just a customs officer. Of course, an unqualified person would not carry out vaccinations.

Senator Sullivan: What do you mean by "A qualified person"?

Dr. Frost: A qualified person is usually one who has had professional training and who, if he is not a physician, works under the direction of a physician and is trained to carry out certain procedures by that physician, such as at any one of our Health Department clinics in schools, where nurses carry out various procedures under the direction of the medical inspector of schools.

Senator Sullivan: It is not obligatory then, that he be a medical officer?

Dr. Frost: It has not been necessary that he be a medical officer, although some medical officer is responsible for the work which is done by the nurse.

Senator Sullivan: Thank you.

Senator Roebuck: But a medical officer is always available, if it is necessary?

Dr. Frost: Not always. There are small hamlets where there are no medical officers available.

Senator Cameron: Is it not true that at Montreal Airport, for people coming in, a technician may do it rather than a nurse?

Dr. Frost: At Montreal Airport we employ doctors and nurses and both carry out vaccinations. We do not have sufficient technicians at Montreal Airport to do more than freighter aircraft. A recent development at Dorval has involved inspection of passengers by a single officer who does health, immigration and customs as a primary examination. If he finds something abnormal, he refers the individual to a customs officer, an immigration officer or a medical officer. Actually, even though the primary inspection is carried out by a primary inspection officer who is non-medical, nurses do board the aircraft on arrival and discuss with the crew any occurrences on board. They look at the passengers coming off, although passengers might not realize this is going on.

Senator Cameron: The reason I ask is that my certificate ran out, and I was shoved into a cubbyhole in Montreal. I had the impression she was a technician rather than a nurse. I may be wrong. It was perfectly all right, but I had the impression she was a technician.

Dr. Frost: She would probably be a nurse, for I do not think we have any female technicians.

Senator Cameron: I was thinking of universal hijacking. No country seems to be immune. What happens when a person is going to a destination he had not intended, where a certain certificate happened to be required and he lands on this forbidden territory without vaccination. Would he be immediately picked up and vaccinated for smallpox.

Dr. Frost: I presume he might be.

Senator Sullivan: He might be locked up.

Dr. Frost: The World Health Organization produces international sanitary regulations which consist of a lengthy list of things we cannot do. We try to adhere to this regulation in every sense. In other words, the WHO does not like us to isolate people unless it is absolutely ncessary. When the danger is not sufficiently great, we are encouraged to get the person immunized, release him and have him report to the local health authorities wher-

ever he is going. This is called surveillance and has replaced isolation as a quarantine procedure very widely. However, occasionally we get an individual who will not co-operate, who even gives a fictitious address which is found to be a vacant lot. We do not encourage them too much.

Senator Grosart: Are all customs officers quarantine officers?

Dr. Frost: They are only quarantine officers at the small hamlets where there are no health and welfare facilities.

Senator Fergusson: I would like to ask Dr. Frost if there are persons who are exempt from the vaccination on their coming to Canada because they have some skin disease or some other reason which would seem quite valid. Would they be able to come in without vaccination?

Dr. Frost: We do not encourage people with skin diseases to be vaccinated. We feel we are getting a very high percentage of people vaccinated. The person who should not be vaccinated is usually placed under surveillance and asked to report to the health authorities at the place of destination. On the other hand, if he were exposed to smallpox we would have a problem on our hands and probably we would have to hold that person.

Senator Fergusson: I know of cases where people did not go to Ireland, for instance, because they were under the impression they must be vaccinated, and certainly they were not going to go through it, because they had a skin disease.

Dr. Frost: The customary procedure is, if they write in and ask about this, we say "carry a statement from your doctor, that he does not recommend vaccination, and so on". These statements are usually accepted anywhere in the world.

Senator Grosart: Is that provided for in the act, or are you going beyond the act?

Dr. Frost: This would possibly be a matter for regulation, although actually the procedure is here. He would be placed under surveillance. It is necessary to keep a closer check on this individual because he is susceptible to smallpox and if he is exposed he may come down with the disease. It is just as well to have the local health authority, where there is a person who may have been exposed in the area.

Senator Grosart: That was not my point, doctor. I was not asking what is the practical thing to do. I was asking whether that is within the provisions of the act?

The Chairman: Or only covered by the regulations.

Dr. Frost: The provision is in a section of the new act.

Senator Grosart: What section?

Mr. J. D. McCarthy, Director of Legal Services, Department of National Health and Welfare: The exact procedure that has been suggested is not set out in the legislation but there is room for discretion on the part of the quarantine officer to allow him to make these allowances we are speaking about.

Senator Grosart: In what section, what clause?

Mr. McCarthy: Section 8, on page 5 of the bill, where it says that a quarantine officer may, under the circumstances described above, detain the person.

Senator Grosart: Would you give the citation, please. Is it clause 8?

Mr. McCarthy: Yes, paragraph (f) of subclause (2) of clause 8.

Senator Roebuck: That is not on page 5, is it?

Mr. McCarthy: Yes, paragraph (f) is on page 5, sir.

Senator Sullivan: Page 5, sub-paragraphs (i), (ii), (iii).

Mr. McCarthy: By that clause a quarantine officer is given some discretion to act in several ways as he thinks wise and one of these is to allow the person to go under surveillance if he undertakes to report and signs an undertaking to report to the health officer.

Senator Grosart: I am sorry. I have not located this yet.

Mr. McCarthy: Page 5 of your bill, sir.

Senator Roebuck: It is at the top of the page.

Senator Grosart: Thank you.

Senator Roebuck: Can you tell me, witness, how long is it since we have had a case of smallpox in Canada?

Dr. Frost: We had one three or four years ago in Toronto. This was a mild case of smallpox, known as Alastrim, which usually occurs in South America or Central America. It is not as highly infectious as the virulent smallpox we have run into in the Far East. Before we had an immunization requirement for smallpox, we had annual major quarantines for smallpox on the west coast and the occasional one in Halifax.

Senator Roebuck: How long ago was that, though?

Dr. Frost: This was in the thirties.

Senator Roebuck: I see. Other than the case you mentioned of three or four years ago, when did smallpox cease to be the menace it used to be? It certainly is not much of a menace now in Canada, there are so few cases.

Dr. Frost: Since we have required travellers to have valid immunization certificates, it has not been the problem it used to be.

Senator Roebuck: And how long ago would that requirement have come into effect?

Dr. Frost: It dates back to the days of the second world war. Prior to that war we had almost annual quarantines. But then travel from infected areas rather changed during the war and journeys were extremely long by virtue of having navy convoys going to all parts of the world. This reduced the hazard during the war, and then right after the war compulsory vaccination was required. Both Canada and the United States put this into effect, and, consequently, both countries have had very few quarantine experiences with smallpox since that time.

Senator Roebuck: How many cases have we had since the close of the war?

Dr. Frost: The Toronto case is the only case that was proven. We had several so-called smallpox scares—the type of situation where a person had a lesion which was doubtful for a few days but which usually turned out to be chickenpox. We have had quite a few of those. To my knowledge, the Toronto case was the only case that actually came in, and he had a spurious certificate which had been accepted by the United States Publics Health Service at New York allowing him to come across the international boundary by train.

Senator Sullivan: Mr. Chairman, may I ask a hypothetical question relating to Senator Fergusson's question about immigrants coming in with their children. Have you the power to see where they were vaccinated or do you just accept a certificate?

Dr. Frost: It is customary to accept certificates. If for any reason the examining officer became suspicious that the individual might not have been vaccinated, the officer would have the right to examine the person.

Senator Sullivan: He has that right now?

Dr. Frost: Yes, and under this act he would have that right as well.

Senator Sullivan: I think he should exercise it more frequently.

Dr. Frost: We had a case of a Dutch family which had spurious certificates, and we reported that case to the Dutch authorities. They took action against the doctor who had signed those certificates and they cancelled his licence for six months.

Senator Thompson: I understand there is some controversy with respect to x-rays disclosing tuberculosis. I do not wish to imply that I am referring to my learned colleague, Dr. Sullivan, but I have heard some doctors say that, if a scar is shown on an x-ray, this might, in some cases, show an immunity to tuberculosis; and in talking to some doctors who have screened immigrants—doctors in England—I have heard that the stringency of the examination of x-raying immigrants is rather overdone. I wonder if you would comment on that.

Dr. Frost: This is an immigration matter. Recently the procedure has been changing. Formerly we had x-ray machines in London, Liverpool, Glasgow, Belfast, Paris and the Hague, but the present trend is for us to dispose of our x-ray equipment and let the individual supply an x-ray taken by his own health department or by his own private doctor. I think the quality of x-rays taken from local sources in foreign countries has improved somewhat from what it was at one time. Right after the war, we were almost obliged to take x-rays in some places in order to get films which could be read.

Senator Sullivan: Is it just a flat plate that is now required?

Dr. Frost: A single flat plate, yes. We used to take miniature films with first-class equipment, but when we are accepting them from

local sources we usually demand "14 by 17" full-size film.

Senator Thompson: If a person had tuberculosis—and I assume that what you are looking for there is a scar on his lung—would he be admissible?

Dr. Frost: It would depend on the scar. A scar which is expanding is, of course, evidence of active disease. If a lesion is the size of a dime on one examination and three months later it is larger, then this person probably has active disease and some further investigation is warranted. Again, if he had a large scar on the first examination and the x-ray produced a small scar on the subsequent examination, the indication would be that it is pretty soft and that there has been recent disease. This would also, then, warrant some checking. On the other hand, if it is a scar that is stationary for some period of time and other clinical investigations are negative, he would certainly be admitted, and, as a matter of fact, most of these persons are being admitted today, either as held cases placed under surveillance by the province, or as active cases for treatment.

Senator Sullivan: If there was a flat plate showing a scar and the doctor was on his toes, he would automatically ask for a complete chest examination and investigation, would he not?

Dr. Frost: I would think so. Of course, some scars look pretty old. I mean, they are very dense.

Senator Sullivan: I am glad you said some.

Senator Thompson: If there is danger of abuse in some countries—and I am thinking of the situation of the Dutch doctor who had his licence cancelled for six months, would not one of the reasons we have had Canadian medical officers overseas be that we have had more confidence in their objectivity in taking examinations?

Dr. Frost: That is quite true.

Senator Thompson: Now your department is changing that practice. Why?

Mr. McCarthy: If I may interject here, Mr. Chairman, tuberculosis is not a quarantinable disease. I think Dr. Frost's comments are relevant so far as immigration services are concerned, but, from the standpoint of strictly infectious and contagious diseases, tuberculosis is not at present included among those; nor, will it be included in intended legislation unless there is some reason for doing so.

Dr. Frost: The only diseases included in the schedule to the bill are: cholera, plague, smallpox, relapsing fever (louse borne), typhus fever and yellow fever.

The only reason we have incorporated yellow fever is that it is listed by the World Health Organization as a major quarantinable disease, and since some passengers enter Canada en route to yellow fever-receptive areas in the United States, our working agreements with the United States demand that we advise them if we find anything.

Senator Thompson: Thank you.

Senator Grosart: Mr. Chairman, on the subject of the small customs entry points where there is no quarantine station established, what are the powers of the collector of Customs who is automatically a quarantine officer in respect of one or two subclauses?

Dr. Frost: If the Customs officer finds or suspects that somebody is ill and does not know what is wrong with the individual, he can hold the ship in quarantine and contact the department or nearest doctor. Usually he would contact the department, and we would get in touch with a doctor—probably a Medical Officer of Health with jurisdiction in this area—and ask him to check. We have had very few experiences where Customs officers have delayed ships for any appreciable length of time.

Senator Grosart: It seems to me that under clause 18, he does not have the power to detain the conveyance. His powers seem to be very limited under clause 18(1). If he is limited to section 5(a) and (b), he would not seem to have very much power to do anything.

Mr. McCarthy: In the proposed legislation the Customs officer's duties will be confined largely to non-medical activities, those which are probably observable by a lay person, and a Customs officer is a handy lay person to have at the border to watch for certain conditions. If he suspects or is not sure that suitable conditions do not exist, he may detain a person until he gets the assistance of a medical officer.

Senator Grosart: Where is that authority given him? I ask that because if he is limited to section 5(a) and (b) he has not any power to detain, and has only the power to board

and to require the person to produce documents. It seems to be specifically limited.

Mr. McCarthy: Are you speaking of a conveyance?

Senator Grosart: I am speaking of a collector of Customs acting under the authority of clause 18 as a quarantine officer not having been so designated. I am wondering what would happen if somebody came in who had not been vaccinated and said, "I am going through!" What power has the *pro tem* quarantine officer to do anything other than ask him to produce documents?

Mr. McCarthy: Subsection (3) of section 18 refers to sections 6, 7, 12, 13, 14 and 17, where it is provided that reference to a Customs officer will be tantamount to reference to a quarantine officer, and most of the sections provide for assistance being given to a quarantine officer. They make it an offence to resist or disobey the order of a quarantine officer, and some other provisions of a like nature. Subsection (3) makes those sections equally applicable to a Customs officer who is exercising the authority given to him under section 18.

Senator Grosart: But not clause 5(c) which is the detaining clause. This is not included in subclause (3) of clause 18. The point I am making is that the right to detain seems to be specifically excluded.

The Chairman: What about clause 18(2)?

Senator Grosart: No.

The Chairman:

> . . . shall detain that person until he has been examined by a quarantine officer.

Mr. McCarthy: I thought the honourable senator was referring to the vehicle rather than the individual.

Senator Grosart: Yes, the conveyance. This is not a major point, but there is nothing worse than giving a government official responsibility without the authority to carry it out. It might be that when you look at it someone might want to amend it.

Dr. Frost: Subclause (c) would not operate in very small places because there would not be a quarantine area there.

Senator Grosart: It may be an oversight in drafting that he is not actually being given the power to detain.

Dr. Frost: If he could not detain, he would not be able to function.

Mr. McCarthy: You are speaking always of the vehicle?

Senator Grosart: Yes, because the power to detain the person is there, but the act seems to make quite a bit of being able to detain the conveyance, and quite understandably.

The Chairman: You might want to examine it as we go along and give us an answer later on.

Senator Sullivan: Would or could you venture an opinion as to what is the most common infectious communicable disease which gets into the country?

Dr. Frost: There is not very much evidence to indicate what the most common one is. I presume it must be influenza. The only way to keep it out would be to stop all traffic completely, would it not?

Senator Sullivan: I would think so.

Senator Inman: Have you ever had any objections to vaccinations on religious grounds? If so, what is the procedure?

Dr. Frost: This individual would be in exactly the same situation as a person who should not be vaccinated for medical reasons. The individual would still be susceptible to smallpox. If he contracted the disease he could still transmit it to others, and if he refused vaccination he would not be tied down and vaccinated, but released under surveillance and instructed to report to a Medical Officer of Health. If he remained healthy for the duration of the incubation period, he would be free.

Senator Thompson: Do any religious groups object to vaccination?

Dr. Frost: Usually only by way of correspondence. We had a gentleman from Great Britain who came out to test the Canadian procedures a year or two ago, but he observed the law as it stood. He was very careful not to do anything which would land him in quarantine or anything of this nature.

Senator Kinnear: How many deaths attributable to vaccination have there been in the past 10 years? You have had practically no deaths from smallpox, yet I hear we have had many deaths from vaccination.

Dr. Frost: Considering the number of people we have vaccinated, the number of complications from smallpox in this country has been very small.

Senator Kinnear: I mean, percentagewise.

Dr. Frost: It is very difficult to determine this. We had a group from our Epidemiology Division go over the death certificates; but, unfortunately, a death certificate is a legal document and not a medical one. Determining the cause of death from a death certificate written some time previously is not a very easy thing to do. They found a few cases that possibly could have died as a complication of vaccination, but I think the majority of these were people who should not have been vaccinated in the first place.

Senator Kinnear: Have you changed the standard of the vaccine?

Dr. Frost: I am not quite sure what you mean.

Senator Kinnear: Have you raised the potency?

Dr. Frost: The World Health Organization specifies the potency. This they recommend to be approved in countries which issue international certificates of innoculation and vaccination. While Canada had an excellent vaccine from a fairly potent strain of vaccinia—this is what cowpox is called—they increased the pox count to conform with the international standard. In other words, the number of virus particles in the vaccine was actually increased to conform with international standards.

Senator Kinnear: There have been so many severe reactions in the past year that I was wondering whether something like that had been done. In some cases the reactions have been very difficult to deal with, including my own.

Dr. Frost: We had a fairly potent vaccine as it was, and I think this has made it a little more potent, although I do not think it has increased the number of serious reactions—just the number of sore arms.

Senator Quart: Dr. Frost, I was very intrigued to hear your remark about individuals or groups who come over and object to vaccination upon religious grounds. When they correspond with your department, what type of answer do you give them?

Dr. Frost: We usually give them the standard answer that an individual who is not vaccinated is susceptible to smallpox, and may contract the disease and be a hazard to others, and that if they are unable to produce a certificate of vaccination they may be placed under surveillance by a quarantine officer on arrival, and instructed to report to the medical officer of health at their destination, or at several destinations, during the incubation period of smallpox.

Senator Quart: If they find out that they have to spend a period of time under surveillance do you think that that persuades them to be vaccinated for their own protection, and for ours?

Dr. Frost: Actually, this immunity requirement has been very successful. We have been getting a much higher percentage of people vaccinated than we really require to control smallpox. For some reason or other, if you get over 70 per cent of a group immunized then you very seldom have to contend with the disease. We do not know why the percentage is this low. These people comprise much less than 30 per cent of the total, and we are getting from 90 to 100 per cent of the people vaccinated.

The Chairman: Shall we now proceed to our consideration of the individual clauses of the bill?

Senator Smith: Mr. Chairman, I wonder if I could say something at this point. Those of us who were in the chamber last night will recall that Senator Sullivan raised a number of specific points, and indicated that he would like to have them considered at this meeting.

The Chairman: I think that that can be done as we go along.

Senator Smith: I am wondering whether we could speed up our proceedings by giving Senator Sullivan an opportunity to have those contentious—if I may use such a strong word—points dealt with first.

The Chairman: I understand that these are specific points that can be dealt with and discussed as we go through the bill clause by clause. However, I am entirely in the hands of the committee.

Senator Smith: I think we will find that we are able to go through a great deal of the bill without any question being raised at all. This is a common practice, and I think we should follow it. It does save time.

The Chairman: Dr. Sullivan?

Dr. Sullivan: Do you want to go through the bill clause by clause, or do you want me to take up the points that I mentioned?

Senator Grosart: Let us go through the bill clause by clause. In that way we will kill both birds with one stone.

The Chairman: Clause 1?

Hon. Senators: Agreed.

The Chairman: Clause 2?

Hon. Senators: Agreed.

The Chairman: Clause 3?

Hon. Senators: Agreed.

The Chairman: Clause 4?

Hon. Senators: Agreed.

The Chairman: Clause 5?

Senator Grosart: Mr. Chairman, I made a suggestion with respect to this clause earlier. I do not want to detain the committee, but my suggestion would be that in clause 5(c) the phrase "in a quarantine area" might be deleted, if it does not cause complications elsewhere. I suggest also that clause 18 should merely refer to the quarantine officer described in section 5, which will include the authority in 5(c) to detain a conveyance.

Dr. McCarthy: I do not think, Mr. Chairman, that we can delete the reference to a quarantine area very practically because the intention here is that a quarantine area will be quite clearly delineated, and because there are offences relating to quarantine areas as distinct from quarantine stations—for instance, the moving into or moving out of without authority, and so on. I think we have to be able to specify precisely by yellow paint, or by some other means of designation, certain areas of an airport, for instance, as quarantine areas into which an airplane or some other conveyance that has not been inspected, or in respect of which the quarantine officer is not satisfied, may be put. There may be a very good reason why that conveyance should stay within the designated area at the Montreal airport, for instance. Am I not correct in that?

Dr. Frost: The quarantine officer may want to put a person in a hotel.

Senator Grosart: If he wants to detain, then he has the right to detain.

Senator Roebuck: Does not clause 14 give him that right? Clause 14 reads:

> Except with the authority of a quarantine officer,
> (a) no person detained by a quarantine officer shall leave the place in which he is detained...

Senator Grosart: But I am discussing a conveyance. Clause 14 refers to a person.

Senator Roebuck: No, because it goes on:

> (b) no person shall remove or interfere in any way with any thing detained in a quarantine area by a quarantine officer.

Senator Grosart: But you must have the power to detain before any thing is detained. My point is that the exception of clause 5(c) from clause 18 removes the power from this officer to detain a conveyance. I will let it go, Mr. Chairman.

The Chairman: This is one way of getting at the objection you raised a moment ago.

Senator Grosart: That is right, it is the same thing. I do not press it now because there may be other problems that a draftsman would find, so I do not want a snap decision on it. I think it would be unfair without looking into what it might do to other clauses of the bill.

The Chairman: Mr. McCarthy, do you see the point here? It is suggested that this is more limited wording than what is being proposed.

Mr. McCarthy: Yes.

Senator Grosart: When you specifically exclude clause 5(c) you are making a specific exclusion, which very often has every bit as much power as a specific inclusion.

Mr. McCarthy: It was my impression that a quarantine area is distinct from a quarantine station. Half of the City of Montreal, as I understand it, could be a quarantine station. A quarantine area is a sort of polluted area within that station.

Senator Grosart: But if he has the power to detain he has the power to detain anywhere he likes. I suggest that you do not need that...

Mr. McCarthy: It could be, but I think it would be objectionable to give authority to a quarantine officer to detain anyone anywhere.

Senator Grosart: No, this is to detain. He has the power. It is more restrictive to say he may detain this conveyance in a quarantine area than to say he may detain it.

The Chairman: And especially where there are no such areas.

Senator Grosart: If he has power to detain he can detain it in Canada. It is draughtsmanship and should be looked at.

The Chairman: Clause 6?

Hon. Senators: Agreed.

The Chairman: Clause 7?

Senator Sullivan: Mr. Chairman, this is where I suggested a change to insert the word insect instead of vermin. Vermin has a definite connotation, whereas insect has a broader coverage, including mosquitoes, which could be of importance to airplanes coming into this country. Down further I say it would be more correct to include carriers of the causative agents of an infectious or contagious disease. Insects do not carry the disease but do carry the causative agent.

Dr. Frost: The reason vermin was included was to include rats, which are vectors of plague. Vermin would include rats, plus the fleas, lice and things of that nature on them.

Senator Sullivan: What about carriers of the causative agents of infectious diseases?

Senator Roebuck: Why do we not use both, vermin and insects?

Dr. Frost: Yes, that would improve it.

Mr. E. Russell Hopkins, Law Clerk and Parliamentary Counsel: I have before me, Mr. Chairman, the definition of vermin as it appears in the *Oxford English Dictionary,* if it would be of any help to the committee.

Senator Smith: I would like to hear it.

Mr. Hopkins: It reads:

> 1. Animals of a noxious or objectionable kind:
> (a) Orig. applied to reptiles, stealthy or slinking animals and various wild beasts; now, except in U.S. and Austr. (see b), almost entirely restricted to those animals or birds which prey upon preserved game.
> (b) Applied to creeping or wingless insects (and other minute animals) of a loathsome or offensive appearance or character, esp. those which infest or are parasitic on living beings and plants;—
> 2....a kind or class of obnoxious animals.
> (b) A single animal or insect of this kind.

Senator Sullivan: It was not a legal dictionary, was it?

Mr. Hopkins: No. I looked to see if there was a statutory definition and there is none in this act.

Senator Grosart: That definition includes mosquitoes.

The Chairman: Would you have any objection to including both?

Dr. Frost: I think it would help if we said vermin or insects.

Mr. McCarthy: I am wondering, Mr. Chairman, about the suggested words "causative agent." Would this be broader than what we are really thinking of in the context? I can think of causative agents that are not of the animal kingdom, all sorts of things that a person might be infected or infested with. Offhand I can see no reason for not adding that if it is not too broad a term.

The Chairman: The proposal now is to add the word "insects".

Mr. McCarthy: Causative agents.

Senator Sullivan: That is the opinion of Dr. Milton H. Brown, Professor of Hygiene at the University of Toronto.

Mr. Hopkins: Would this be a sensible suggestion: vermin, animal or insects.

Senator Sullivan: I think it has to be broader than just vermin.

Mr. Hopkins: Then it would not matter whether the vermin was animal or insect.

Senator Grosart: Another suggestion would be to leave out the words: "... vermin that may be . .." So it would be: "... found to be infested with carriers of an infectious or contagious disease, ...". This would make it even broader.

Senator Sullivan: No. "The causative agent of infectious or contagious diseases." That is my point. Is that correct, Dr. Frost?

Dr. Frost: Yes.

Mr. Hopkins: What do you say Mr. McCarthy?

Mr. McCarthy: I see no reason for not adding Senator Sullivan's suggested words "... carriers or other causative agents ...."

Mr. Hopkins: I would like to hear the complete amendment now for the record.

Senator Sullivan: I had mine originally in my paper, but I will have to change it now.

Dr. Frost: I think it is preferable to leave the words vermin or insect in rather than take them out. Carriers might be confused with human carriers.

Senator Sullivan: That is correct.

Dr. Frost: We often speak of persons being carriers, like typhoid carriers. Unless it specifies vermin or insects one might think that this might mean human carriers.

Senator Roebuck: I move that after the word "vermin" there be inserted the words "or insects".

The Chairman: Is that amendment seconded?

Senator Sullivan: I second the amendment.

Hon. Senators: Agreed.

The Chairman: That section as amended is carried.

Senator Sullivan: This question arises also on page 6 in line 4 of clause 10. I think it would be well to insert ".. carriers of the causative agent of an infectious or contagious disease,..."

The Chairman: How would it read, senator?

Senator Grosart: With the two amendments it would now read:

> 7. (1) Where a conveyance described in paragraph (a) of section 5 is found to be infested with vermin or insects which may be carriers or causative agents of an infectious or contagious disease,...

And so on.

Senator Sullivan: That is the point.

Senator Grosart: Before we leave clause 7 I would like to point out that subclause (3) reads: "A quarantine officer may detain any conveyance ...." Here the phrase "in a quarantine area" is not found necessary, which may indicate that it is not necessary in the other place.

Mr. McCarthy: There is a reason for this in this instance though, sir, because here we merely retain possession of something as security for a debt.

Senator Grosart: Yes, but he may detain it and obviously he will detain it in the quarantine area.

The Chairman: Is this second amendment carried?

Hon. Senators: Agreed.

The Chairman: Is the clause as amended carried?

Hon. Senators: Agreed.

The Chairman: Clause 8. Do you have something to say with regard to that clause, Senator Sullivan?

Hon. Senators: Agreed.

The Chairman: Clause 9?

Hon. Senators: Agreed.

The Chairman: Clause 10.

Senator Sullivan: Here again, in line four I think it would be well to insert "carriers of the causative agent of an infectious or contagious disease."

Senator Grosart: Is there a reason why the word "insects" issued instead of "vermin"?

Dr. Frost: Because rats would not be on his person.

Senator Grosart: Vermin might be.

Dr. Frost: Yes, vermin other than that.

Senator Sullivan: It is a little unusual.

The Chairman: We might as well add "vermin" there.

Senator Grosart: It cannot do any harm.

The Chairman: No.

Senator Grosart: I do not know whether lice are insects or vermin.

Mr. Hopkins: This should be "vermin or insects" as in the other clause?

Senator Grosart: Yes.

The Chairman: These are similar amendments. Are these two amendments agreed to?

Hon. Senators: Agreed.

The Chairman: Shall clause 10 as amended carry?

Hon. Senators: Agreed.

The Chairman: Clause 11.

Hon. Senators: Agreed.

The Chairman: Clause 12.

Hon. Senators: Agreed.

The Chairman: Clause 13.

Hon. Senators: Agreed.

The Chairman: Clause 14?

Hon. Senators: Agreed.

The Chairman: Clause 15.

Hon. Senators: Agreed.

The Chairman: Clause 16.

Hon. Senators: Agreed.

The Chairman: Clause 17.

Hon. Senators: Agreed.

The Chairman: Clause 18.

Senator Grosart: I draw attention to the point I made earlier on this clause.

The Chairman: Will you want to consider this?

Mr. McCarthy: Yes, I would like to speak to the draftsmen in the Department of Justice on this point, if that is agreeable.

Senator Grosart: Yes.

Mr. McCarthy: This was drafted in that department. I did not draft it, so I would like to speak to them.

Senator Grosart: Subject to our legal expert, to expedite this I would be glad to leave it this way. If after reconsideration it is decided that the suggested amendments to clauses 5 and 18 are not necessary, then we are quite content. I will leave it to an expert to tell us how to put it in. I do not want to hold up the bill today.

The Chairman: We will carry on today and leave that to their own judgment.

Senator Grosart: Yes.

The Chairman: Shall clause 18 carry?

Hon. Senators: Agreed.

The Chairman: Clause 19.

Senator Sullivan: It is here that I feel a most important change should be made. I refer to section 19(1)(g). Yesterday in the House I said:

> In view of the fact that more people die in Canada from smallpox vaccination than from the disease smallpox, every precaution should be taken not to vaccinate any person wherein there are definite contra-indications... Besides eczema, which is one of the outstanding contra-indications, the use of various agents such as steroids and alkylating drugs... makes caution necessary in the employment of vaccination.

To this end I would suggest adding the following to the latter part of paragraph (g):

> That persons with eczema or diseases such as leukemia, lymphoma, or generalized malignancy or those who may have lowered resistance such as from therapy with steroids, alkylating drugs, antimetabolites or radiation, or during pregnancy in which immunization is deemed to be contra-indicated, be exempted from this section at the discretion of the quarantine officer.

Do you have any comments to make at the moment?

Mr. McCarthy: Not at the moment, Mr. Chairman, no.

Senator Sullivan: Do you not think that should be specified right in the act, Dr. Frost?

Dr. Frost: It is certainly specified in our instructions to quarantine officers. The question arises what to do with a pregnant woman who has been exposed to smallpox. I am trying to think of a hypothetical situation that may never occur, but if it does this woman may wish to be vaccinated for her own protection. If it were prohibited by the act, it would be an awkward situation. If this were at the discretion of the quarantine officer, it would give him the authority to vaccinate, and it would be for the individual to decide whether she would rather take a chance with vaccination than contracting smallpox.

Senator Sullivan: Could not that particular aspect be specified?

Senator Roebuck: I think this would give a good deal of latitude to the officer. Perhaps we could say "may" instead of "shall", and then keep the clause at the discretion of the officer. Surely that is enough. Anyone wishing to be vaccinated can go anywhere and get it done. A woman can be vaccinated by a doctor if she pleases; that is her affair. There is no reason why we should require the officer to do it.

Senator Sullivan: You mean leave it to the discretion of the quarantine medical officer?

Senator Roebuck: Yes. What we ought to do is leave the officer the widest possible discretion so that he can tell the woman she should not be vaccinated, but if she then wants to be vaccinated she can go to a doctor outside and have it done. There is no reason why our officer should take the responsibility of vaccinating the woman when she wants it done and he does not want to do it.

Senator Sullivan: Let me follow what I have said with this, which I think backs up my original remarks. I went on to say:

> This suggestion is substantiated in another way by The World Health Organization, Geneva, 1966, International Sanitary Regulations, Article 98, footnote 9, which reads as follows:
>
> > If a vaccinator is of the opinion that vaccination is contra-indicated on medical grounds he should provide the person with written reasons underlying that opinion, which health authorities may take into account.

Senator Smith: That last paragraph is very interesting, and it is exactly the practice followed in our services, as I understand it. I do not want to express an opinion that is not based on any experience, but it seems to me that when one starts enumerating in rather vague terms a lot of anticipated diseases or troubles that will be regarded as contra-indicated, one might want to omit some, and we are therefore legislating some in that are perhaps not well described. This is something that I think those in the department, especially Dr. Frost, along with legal advisers, must give careful consideration to before they can accept it. This is just the opinion of a layman and has no real significance, except that we should all express our opinions, because that is what we are here for.

Senator Sullivan: Mr. Chairman, I disagree completely. We have to be very careful what we do to people and I think it should be spelled out and put in the act.

Senator Grosart: I would agree with Senator Sullivan, because of the context of section 19(g), which would give the minister the power to require persons—if that power is there it may be exercised. If there is a kind of medical opinion, which we have heard, that these persons should not be so required against their will, then I think this is not something that should be left to the regulations. If the medical opinion we have is to be respected then we should not give this discretionary power. I would suggest that it read as it is now, but with the following added:

> but not so requiring persons...

and then carrying on. This would still leave discretion. It would merely say "not so requiring", but if anybody requested it then they could have it. If some quarantine officer decided that he wanted to—surely the more explicit the instructions are in the act the better it would be for the quarantine officers, who are not necessarily, as Senator Roebuck said, medical men, but collectors of customs without any medical experience, who suddenly find themselves, under the act, quarantine officers.

I am not competent in any way to comment on the medical aspects of this. From the point of view of legislation I suggest that there is danger in giving the discretionary power to the minister to require. That requirement could be dangerous to the lives of certain people. I am not suggesting that there would be anything deliberate in this, but these things happen.

Senator Roebuck: Senator Sullivan, would you mind reading your clause again that you are proposing.

Senator Sullivan: The additions I made?

Senator Roebuck: Yes.

Senator Sullivan: It begins:

> requiring persons arriving in Canada from any place outside Canada to produce to a quarantine officer evidence of immunization to any infectious or contagious disease;

To this end, I would suggest adding "but not so requiring".

Senator Grosart: It would now read "but not so requiring persons".

Senator Sullivan: "but not so requiring":

> That persons with eczema or diseases such as leukemia, lymphoma, or generalized malignancy or those who may have lowered resistance such as from therapy with steroids,...
>
> ...alkylating drugs, antimetabolites or radiation,...
>
> or during pregnancy in which immunization is deemed to be contra-indicated, be exempted from this section at the discretion of the quarantine officer.

I then went on further to say:

> This suggestion is substantiated in another way by the World Health Organization, Geneva, 1966, International Sanitary Regulations, Article 98, footnote 9, which reads as follows:
>
> > If a vaccinator is of the opinion that vaccination is contra-indicated on medical grounds he should provide the person with written reasons underlying that opinion, which health authorities may take into account.

Senator Roebuck: It is just the clause you suggest we add that I particularly wanted. The other is very informative, but it says at the discretion of the officer. Perhaps you might provide for the inclusion of something we have not thought of, something that was of a similar nature that we do not have in your enumeration.

The Chairman: In order to bring some kind of residual expression there.

Senator Grosart: First of all, Mr. Chairman, it is not at all unusual in our legislation to specify diseases, hazardous products, and so on. We have that in our legislation and, in fact, in this legislation we have the contagious diseases themselves named. As a layman I do not understand why those are the only ones, but I am sure they are there for good reasons. As to Senator Roebuck's remarks, taken from what Senator Sullivan read, that it should be at the discretion, this is not necessary of course because of the qualifying phrase "but not so requiring". So this discretionary part would be out. As to adding generic description of other conditions that might come under it, that is for somebody else to decide. From a legislative point of view it is not necessary, and it is quite normal to specify those that come to mind at times such as this.

Mr. Hopkins: As exceptions.

Senator Sullivan: What do you think, Dr. Frost.

Dr. Frost: It might be advisable to insert an additional clause in here or modify the clause so that this could be set forth in regulations, because this list may be added to as times goes on. It is like the list of diseases on the schedule; we may want to change it six months from now to either expand or contract, as our knowledge increases.

Senator Grosart: That is the other side of the coin.

Senator Hays: If you put enough on here you will not need the act. That is the whole purpose of the act. I think the smallpox vaccination has been splendid. How are you going to know if a woman is pregnant or not? A lot of them do not know themselves.

Senator Roebuck: Senator Sullivan, how would it be to add to your enumerations "or under such conditions", "or conditions". That gives the officers further discretion if something turns up that is equally...

Senator Sullivan: I think it would be an excellent suggestion.

The Chairman: Then you open up the whole thing and then, as Senator Hays says, there is almost no act.

Senator Grosart: Not at all. All we are doing is incorporating what the witness tells us is already in the regulations in effect. We are doing no more than that.

Dr. Frost: This section is very general in that it is only authorizing the Governor in Council to make regulations. It would seem that if this authority also included the right to make exceptions of certain classes, like persons suffering from certain conditions...

Senator Grosart: That is exactly what it does.

Dr. Frost: That is, the Governor in Council may not only make regulations for all persons arriving in Canada from a place outside Canada who are unable to produce as required by the regulations evidence satisfactory to a quarantine officer of immunization to an infectious or contagious disease, he may also want to exempt certain classes of persons such as possible persons coming from the United States where there is no disease there or persons suffering from certain conditions such as you listed.

Senator Sullivan: This is all in the regulations.

Dr. Frost: In other words, the regulation authority might be just broadened a little or made a little wider than specified here. We had a section in it at one time which enabled the quarantine officer to exempt people suffering from certain conditions, but it was taken out because we use an administrative instruction saying that you shall not vaccinate people suffering from these conditions. The regulations only gave you authority to do certain things that you are required to do. It was not an instruction in medicine.

Senator Sullivan: You feel, in spite of what I have said, that it is adequately covered as it is now, without utilizing this?

Dr. Frost: I think the quarantine officer should have discretionary powers to exempt from vaccination a person who is otherwise required to be vaccinated, to exempt them on medical grounds, that is.

Mr. McCarthy: But that is not Senator Sullivan's point.

Dr. Frost: I think that is Senator Sullivan's point.

Mr. McCarthy: No, I do not think so. I think he would like, if possible, to make provision in the act here, not in the regulations, to make a section which would make it very clear that whatever the Governor in Council did about requiring people to produce certificates of immunization, recognition would be given to exemptions in cases of certain diseases and conditions of people.

Senator Sullivan: That is correct.

Mr. McCarthy: My answer to that is that this paragraph, as I read it now, does give that ability to the Governor in Council. It will not merely say you must produce evidence of immunization; it carries with it a power to make conditions and terms to meet situations. What is likely is that the precise recommendations to the Governor in Council will take these things into consideration. That is not here, but it would follow from the administrative practice.

Senator Grosart: What you are saying, is that the Governor in Council may require anybody, as it stands.

Mr. McCarthy: Yes.

Senator Grosart: The question we are discussing is whether the right of persons to be exempt from the regulations is to be statutory or at the discretion. We are talking about a human right, the right of people with certain conditions, and we have some medical evidence that those people who have the right to be exempt by statute, not merely at the discretion of the Government.

Might I suggest, as I have often done in other cases, that the more specific we are, when dealing with human rights in statutes, the better protection we give to those human rights, assuming that the human rights should be protected, and I take it from Senator Sullivan's evidence that they are rights which should be protected by statute.

Dr. Frost: There is one point, that if you exempt them from vaccination by statute, there may be instances where these people might have been exposed to some matter where there may be a definite hazard and although it may be that they cannot be vaccinated, they should be subject to some alternative measure to make certain they do not spread the disease.

Mr. McCarthy: But for the moment we are speaking about this requirement, the requiring of person to produce evidence of immunization. I wonder whether it might be satisfactory to Senator Sullivan if we added to this paragraph something like this—I cannot form the exact words—"and to prescribe the conditions under which that requirement will not be imposed"; in other words, providing to the Governor in Council, when these recommendations are made in due course, authority to prescribe the conditions under which certain persons can be exempted.

Senator Sullivan: If you had already followed what I have said, though probably you have not had an opportunity, this is a summation of opinion announced at a meeting in Philadelphia two weeks ago, as has been incorporated in this paragraph, and it is now to be put into effect in the United States by the Department of Health, Education and Welfare. The same precautions are advised for live vaccines—that is, live poliomyelitis, measles, mumps, rubella, and yellow fever vaccines. So, what has been said about smallpox applies to all those live vaccines.

Senator Hays: This covers cholera, plague, smallpox, yellow fever, and so on. What are the United States acts which cover these? Do they have a similar act? Do the British have a similar act? I know you cannot go south of the equator without being subject to this, and you do not have any recourse, no matter what

your condition is. You have to have vaccination against yellow fever and to get out of there you have to go into other countries.

Dr. Frost: Most countries have quarantine acts somewhat similar to ours, and the United States legislation is extremely difficult to understand and read. Their practices and ours are somewhat identical. I have here the Quarantine Act of Australia, which is very strict in regard to smallpox.

Senator Hays: And yellow fever.

Dr. Frost: Yes.

Senator Hays: You just cannot get in there without vaccination.

Dr. Frost: The United States practice and ours is practically the same, as we have an agreement whereby a person is inspected once on entry into the area, which is comprised of the continental United States and Canada. He is inspected only at one point and then he can move anywhere in the area without subsequent inspection, unless he is under surveillance. If we inspect a person who requires surveillance and if he is bound for Boston, we advise the United States public health authorities. The converse also applies.

The Chairman: I do not think we will be able to solve this problem here this afternoon.

Senator Grosart: I suggest that, unless there is some urgency in passing this legislation, we pass all the non-controversial clauses. I might withdraw my suggestion regarding clauses 5 and 18 and let the department come back before us and let us have their opinion after some reflection.

The Chairman: And on these two points.

Hon. Senators: It is agreed.

Senator Grosart: Is that acceptable to the department?

Mr. McCarthy: Yes, it is.

Senator Sullivan: So we are being constructive in every sense.

Senator Grosart: With permission, I would revert to clauses 5 and 18 and ask that they now be stood.

Hon. Senators: Agreed.

The Chairman: Clause 20. Is clause 20 carried?

Hon. Senators: Carried.

The Chairman: Clause 21. Is clause 21 carried?

Hon. Senators: Carried.

The Chairman: Clause 22. Is clause 22 carried?

Hon. Senators: Carried.

The Chairman: Shall we go back to clause 1?

Senator Grosart: No, if you are standing the others.

The Chairman: Could we come back to this some time next week at your convenience?

Mr. McCarthy: Yes.

The Chairman: Would that give you sufficient time to look at these points?

Mr. McCarthy: Yes, I think so.

The Chairman: Otherwise, it would delay this. You want to get your legislation.

The committee adjourned.

Queen's Printer for Canada, Ottawa, 1969

Second Session—Twenty-eighth Parliament

1969

THE SENATE OF CANADA

PROCEEDINGS
OF THE
STANDING SENATE COMMITTEE
ON

HEALTH, WELFARE AND SCIENCE

The Honourable MAURICE LAMONTAGNE P.C., *Chairman*

No. 2

WEDNESDAY, DECEMBER 10th, 1969

Second and Final Proceedings on Bill S-12,

intituled:

"An Act to Prevent the Introduction into Canada of Infectious and Contagious Diseases."

WITNESSES:

Department of National Health and Welfare: Dr. W. H. Frost, Senior Medical Adviser, Medical Services; J. D. McCarthy, Director of Legal Services.

21313—1

THE SENATE COMMITTEE ON HEALTH, WELFARE AND SCIENCE

The Honourable Maurice Lamontagne, *Chairman*

The Honourable Senators:

Belisle	Fournier (*Madawaska-Restigouche*)	Michaud
Blois	Gladstone	Phillips (*Prince*)
Bourget	Hastings	Quart
Cameron	Hays	Robichaud
Carter	Inman	Roebuck
Connolly (*Halifax North*)	Kinnear	Smith
Croll	Lamontagne	Sullivan
Denis	Macdonald (*Cape Breton*)	Thompson
Fergusson	McGrand	Yuzyk—(28)
Fournier (*de Lanaudière*)		

Ex officio Members: Flynn and Martin

(Quorum 7)

Patrick J. Savoie,
Clerk of the Committee.

ORDER OF REFERENCE

Extract from the Minutes of the Proceedings of the Senate, Tuesday, December 2nd, 1969:

"Pursuant to the Order of the Day, the Senate resumed the debate on the motion of the Honourable Senator Smith, seconded by the Honourable Senator Martin, P.C., for the second reading of the Bill S-12, intituled: "An Act to prevent the introduction into Canada of infectious or contagious diseases".

After debate, and—
The question being put on the motion, it was—
Resolved in the affirmative.

The Bill was then read the second time.

The Honourable Senator Smith moved, seconded by the Honourable Senator Gouin, that the Bill be referred to the Standing Senate Committee on Health, Welfare and Science.

The question being put on the motion, it was—
Resolved in the affirmative."

ROBERT FORTIER,
Clerk of the Senate.

21313—1½

MINUTES OF PROCEEDINGS

WEDNESDAY, December 10th, 1969.
(2)

Pursuant to adjournment and notice the Standing Senate Committee on Health, Welfare and Science met this day at 2.00 p.m.

Present: The Honourable Senators Blois, Cameron, Carter, Connolly (*Halifax North*), Fergusson, Fournier (*de Lanaudière*), Fournier (*Madawaska-Restigouche*), Gladstone, Inman, Kinnear, Lamontagne (*Chairman*), Quart, Robichaud, Smith, Sullivan and Yuzyk.—(17)

Present but not of the Committee: The Honourable Senator Grosart.—(1)

In Attendance: E. Russell Hopkins, Law Clerk and Parliamentary Counsel.

Consideration of Bill S-12, "An Act to prevent the introduction into Canada of infectious or contagious diseases", was resumed.

The following witnesses were heard:

DEPARTMENT OF NATIONAL HEALTH AND WELFARE:

Dr. W. H. Frost, Senior Medical Adviser, Medical Services; and
J. D. McCarthy, Director of Legal Services.

On motion duly put, it was *Resolved* to report the Bill with the following amendments:

1. *Page 2, clause 5, paragraph* (c), *line 37:* Strike out "in a quarantine area".
2. *Page 3, clause 7, subclause* (1), *line 17:* Immediately after the word "vermin", strike out "that may be carriers" and substitute "or insects that may be carriers or causative agents".
3. *Page 5, clause 8, line 35:* Immediately after paragraph (b) of subclause 3, clause 8, add the following:

   "(4) Notwithstanding anything in this Act or the regulations, a person described in subclause (2) shall not be requested to submit to being vaccinated against any infectious or contagious disease if

   (a) it is apparent to the quarantine officer that such person should not be vaccinated; or

   (b) the quarantine officer has been informed that there are medical reasons for such person not being vaccinated and is of the opinion that such person should not be vaccinated."

4. *Page 6:* Strike out clause 10 and substitute therefor the following:

   "10. Where a quarantine officer believes on reasonable grounds that a person arriving in Canada from a place outside Canada is infested with vermin or insects that may be carriers or causative agents of an infectious or contagious disease, the quarantine officer may disinfest that person, his clothing and baggage."

5. *Page 7, clause 14, paragraph* (*b*), *lines 7 and 8:* Strike out "in a quarantine area".

6. *Page 8, clause 18, subclause* (*1*), *lines 20 and 21:* Strike out "paragraphs (*a*) and (*b*) of".

At 2.25 p.m. the Committee adjourned to the call of the Chairman.

ATTEST:

Patrick J. Savoie,
Clerk of the Committee.

REPORT OF THE COMMITTEE

WEDNESDAY, December 10th, 1969.

The Standing Senate Committee on Health, Welfare and Science to which was referred Bill S-12, intituled: "An Act to prevent the introduction into Canada of infectious or contagious diseases", has in obedience to the order of reference of December 2nd, 1969, examined the said Bill and now reports the same with the following amendments:

1. *Page 2, clause 5, paragraph (c), line 37:* Strike out "in a quarantine area".
2. *Page 3, clause 7, subclause (1), line 17:* Immediately after the word "vermin", strike out "that may be carriers", and substitute "or insects which may be carriers or causative agents".
3. *Page 5, clause 8, line 35:* Immediately following paragraph (b) of subclause 3, clause 8, add the following:

   "(4) Notwithstanding anything in this Act or the Regulations, a person described in subclause (2) shall not be requested to submit to being vaccinated against any infectious or contagious disease if

   (a) it is apparent to the Quarantine Officer that such person should not be vaccinated; or

   (b) the Quarantine Officer has been informed that there are medical reasons for such person not being vaccinated and is of the opinion that such person should not be vaccinated."
4. *Page 6, clause 10, line 12:* Immediately after "infested with" add "vermin or".
5. *Page 7, clause 14, paragraph (b), lines 7 and 8:* Strike out "in a quarantine area".
6. *Page 8, clause 18, subclause (1), lines 20 and 21:* Strike out "paragraphs (a) and (b) of".

All which is respectfully submitted.

MAURICE LAMONTAGNE,
Chairman.

STANDING SENATE COMMITTEE ON HEALTH, WELFARE AND SCIENCE

EVIDENCE

Ottawa, Wednesday, December 10, 1969

The Standing Senate Committee on Health, Welfare and Science, to which was referred Bill S-12, an act to prevent the introduction into Canada of infectious or contagious diseases, met this day at 2 p.m. to give further consideration to the bill.

Senator Maurice Lamontagne (*Chairman*) in the Chair.

The Chairman: Honourable senators, while we were busy otherwise, the officials and some members of the Opposition were at work, and apparently unanimity has been reached. We now have before us six amendments, one of which was definitely accepted last week. I think we might as well go over them briefly.

As you remember, we suspended consideration of clause 5, paragraph (c), last week at the request of Senator Grosart. I now understand that the officials of the department agree to the suggested change.

Senator Grosart: I believe our rules require that an amendment delete the entire paragraph and substitute another, rather than have it in the form in which the amendments are before us.

Mr. E. Russell Hopkins (Law Clerk and Parliamentary Counsel): That is only qualifiedly true. There is a provision in the rule as adopted, at the suggestion of the Department of Justice, that if it is convenient to do it this way we may do so.

Senator Grosart: This is our rules?

Mr. Hopkins: Yes.

Senator Grosart: Then I move—page 2, clause 5, paragraph (c), line 37: Strike out "in a quarantine area".

Senator Smith: For the purposes of our record, I wonder if Mr. McCarthy or Dr. Frost would indicate the implications of this. I do not think we need take up much time on it, but perhaps they could just say what the effect of it is.

Mr. J. D. McCarthy (Director of Legal Services, Department of National Health and Welfare): The effect of this is not to confine the authority of the quarantine officer to detaining a vehicle in a quarantine area, which is an area within a quarantine station. It broadens the area in which he may detain a vehicle.

Senator Smith: That is fine.

The Chairman: Shall the amendment carry?

Hon. Senators: Carried.

The Chairman: Shall clause 5, as amended, carry?

Hon. Senators: Carried.

The Chairman: The second amendment refers to clause 7 and was carried last week.

Senator Sullivan: Mr. Chairman, I move that on page 3, clause 7...

Mr. Hopkins: That was carried, sir.

The Chairman: Last week.

Senator Carter: It was carried as amended?

The Chairman: Yes, as amended.

The third amendment was sponsored by Senator Sullivan.

Senator Sullivan: Mr. Chairman, it reads:

> Page 5, clause 8, line 35: Immediately after paragraph (b) of subclause 3, clause 8, add the following:
>
> "(4) Notwithstanding anything in this Act or the regulations, a person described in subclause (2) shall not be requested to submit to being vaccinated against any infectious or contagious disease if
>
> (a) it is apparent to the quarantine officer that such person should not be vaccinated; or

(b) the quarantaine officer has been informed that there are medical reasons for such person not being vaccinated and is of the opinion that such person should not be vaccinated."

I so move.

Mr. McCarthy: Senator Sullivan suggested this amendment. As I understand it, Senator Sullivan, the amendment was suggested last week to make sure that no person would be asked to submit to vaccination in circumstances in which, for medical reasons, he should not be vaccinated. The bill, as it stood, did not contain anything which would require a person to be vaccinated. Nevertheless, in certain circumstances he might be requested to be by a quarantine officer. The effect of this change is to ensure that the quarantine officer will not require such person to be vaccinated if in the exercise of medical judgment by him, or for reasons which have come to his notice, he does not think that person should be vaccinated.

Senator Smith: Mr. Chairman, that also involves the responsibility of the department to keep that particular person under surveillance, under certain conditions, if they deem it prudent to do so.

Mr. McCarthy: Yes, this change will not affect the discretion of the quarantine officer as to the alternative measures he may take in the circumstances.

Senator Grosart: If the request is refused.

Mr. McCarthy: Yes.

Senator Carter: Does this clause presuppose that the quarantine officer is going to be a medical man?

Mr. McCarthy: It does presuppose that, and this is the practice. It is invariably the case. Am I not right on this, Dr. Frost?

Dr. W. H. Frost, Senior Medical Consultant to the Medical Services Division, Department of National Health and Welfare: The senior officer in charge of the quarantine station is a doctor, with only one exception at the moment, in Gander, where the doctor is part time. That is, the nurse is a full-time employee in charge of the Gander station, but she calls in a doctor for medical advice. There is one point here. This clause will not prevent the doctor vaccinating an individual where vaccination is contraindicated if the individual desires to be vaccinated in view of very serious circumstances, such as if the individual had slept in a cabin where another passenger had developed smallpox. In this case vaccination may be the lesser risk.

Senator Sullivan: In such a case the individual can request it, but that is not the responsibility of the quarantine officer. That is fine.

The Chairman: Is the amendment carried?

The last statement refers to this last part of (b), when he is of the opinion, medically speaking, it is the lesser of two evils to vaccinate, despite the contra-indications.

Mr. McCarthy: That is right, sir.

The Chairman: Is clause 8, as amended, carried?

Hon. Senators: Carried.

The Chairman: As you remember, last week clause 10 was amended and the amendment was carried. I now understand that we have a further amendment, to change one word. The word used at the end of clause 10 of the original bill was "disinsect". As it was amended last week it became "disinfect". Now, it is proposed that we use the word "disinfest", and I would ask Mr. McCarthy to explain the reason why this change is desirable.

Mr. McCarthy: In the amendment made last week we added the word "vermin" to the description of things with which a person might be infested.

Senator Grosart: You said we added "vermin". In fact, we added "insects".

Mr. Hopkins: We added "vermin".

Senator Carter: "Insects" was in the original bill.

Senator Grosart: Very well; I am sorry.

Mr. McCarthy: The result was that remedial action would need to be broader than "disinfecting" the person, because theoretically we would have to leave the vermin, if any, on him. For this reason we have come up with the word "disinfest". on the assumption that, whether it be vermin or insects, the person would be infested with these things and his "disinfestation" would be what was required to be done.

Senator Sullivan: There is quite a difference between "disinfest" and "disinfect", if I may clarify it. The dictionary says:

> Disinfestation. The extermination or destruction of insects, rodents or other animal forms which might transmit infection and which are present on the person or clothing of an individual or in his surroundings.
>
> (Dorland's Medical Dictionary, 24th Edition, page 437).

I think the word "disinfest" is most important here, rather than using "disinfect".

Senator Robichaud: But there is no difference in the bugs.

The Chairman: Are you satisfied, Senator Smith?

Senator Smith: I cannot hear very well. Some day we will get around to having this room fixed up.

An hon. Senator: Is there a word known to medical science for disinfecting the minds of individuals?

Mr. Hopkins: Brainwashing.

An hon. Senator: Did I understand Senator Sullivan to suggest...

The Chairman: Changing "disinfect" to "disinfest".

Senator Carter: You could add both.

Senator Smith: I see nothing wrong with that.

Mr. Hopkins: You will notice in the third line it appears that a person is "infested" and the obvious thing to do is to "disinfest".

Senator Cameron: I may be being obtuse, but "disinfect" would cover all the bugs, bacteria and so on.

Senator Sullivan: How are you going to "disinfect" everyone with influenza?

An hon. Senator: "Disinfest" has to do with infestation, you just get rid of the bugs that are on a person.

Dr. Frost: We could not "disinfect" people without "disinfesting" them first.

Senator Sullivan: If "disinfest" is what we can do to a person, we can get rid of the bugs on the body, but we cannot "disinfect" him without killing him first.

The Chairman: Apparently, in order to "disinfect" a person you have to kill him first, and I do not think anyone would approve of that. Is the amendment agreed to?

Hon. Senators: Carried.

The Chairman: Shall clause 10, as amended and re-amended, carry?

Hon. Senators: Carried.

The Chairman: Amendment No. 5 is consequential upon amendment No. 1, which we have approved today.

Senator Grosart: I move amendment No. 5:

> Page 7, clause 14, paragraph (b), lines 7 and 8: Strike out "in a quarantine area".

Hon. Senators: Carried.

The Chairman: Shall clause 14, as amended, carry?

Hon. Senators: Carried.

Mr. Hopkins: I have a little bad news for the committee. There does not seem to be any such word as "disinfest" in either the English or French dictionaries. Is there anyone experienced in the French language who could give us the word?

Senator Sullivan: I read the definition of "disinfest".

The Chairman: It is up to the translators to work on translating the word.

Senator Grosart: That is their job, not ours.

The Chairman: It is certainly not mine.

Now let us deal with the final amendment, which again is consequential upon the first and fifth amendments.

Senator Grosart: Mr. Chairman, I move that: on page 8, clause 18, subclause (1), lines 20 and 21, we strike out the words "paragraphs (a) and (b) of".

Senator Smith: Before that amendment carries, may we have a look at it?

Mr. McCarthy: Senator Smith, you will note that clause 18 provides to collectors of Customs certain powers of quarantine officers, and the powers provided to Customs officers here, the way the bill is presently printed, are those powers contained in paragraphs (a) and (b) only of section 5, and the point was raised last week that the authority contained in paragraph (c), also of section 5, should be

given to a collector of Customs. That is the effect of the present suggested amendment.

Senator Smith: As I understand it, the motion was to strike out the words "paragraphs (a) and (b) of". Is it the intention to strike out the word "described" as well?

Mr. McCarthy: No, the effect of that would be that subsection (1) of section 18 would read as follows:

> The collector of Customs at any harbour, airport or port of entry into Canada at which a quarantine station has not been established may exercise the powers of a quarantine officer described in section 5.

Senator Grosart: It removes a restriction that would otherwise be there.

The Chairman: Shall this clause as amended carry?

Hon. Senators: Carried.

The Chairman: Shall clause 1 carry?

Hon. Senators: Carried.

The Chairman: Shall I report the bill as amended?

Hon. Senators: Agreed.

Whereupon the committee adjourned.

Queen's Printer for Canada, Ottawa, 1969

Second Session—Twenty-eighth Parliament

1969-70

THE SENATE OF CANADA

PROCEEDINGS
OF THE
STANDING SENATE COMMITTEE
ON

HEALTH, WELFARE AND SCIENCE

The Honourable HARRY WM. HAYS, *Acting Chairman*

No. 3

THURSDAY, FEBRUARY 5th, 1970

First Proceedings on Bill S-14,

intituled:

"An Act respecting the sale and importation of certain radiation emitting devices"

WITNESSES:

Department of National Health and Welfare:

G. McCarthy, Director of Legal Services.
Dr. P. M. Bird, Director, Environmental Health Services.
Dr. A. H. Booth, Chief of Radiation Production Division.

21315—1

THE SENATE COMMITTEE ON HEALTH, WELFARE AND SCIENCE

The Honourable Maurice Lamontagne, *Chairman*

The Honourable Senators:

Belisle	Fournier (*Madawaska-Restigouche*)	McGrand
Blois	Gladstone	Michaud
Bourget	Hays	Phillips (*Prince*)
Cameron	Hastings	Quart
Carter	Inman	Robichaud
Connolly (*Halifax North*)	Kinnear	Roebuck
Croll	Lamontagne	Smith
Denis	Macdonald (*Cape Breton*)	Sullivan
Fergusson		Thompson
Fournier (*de Lanaudière*)		Yuzyk—(28)

Ex officio Members: Flynn and Martin

(Quorum 7)

ORDER OF REFERENCE

Extract from the Minutes of the Proceedings of the Senate, Wednesday, January 28th, 1970:

Pursuant to the Order of the Day, the Senate resumed the debate on the motion of the Honourable Senator Fergusson, seconded by the Honourable Senator Inman, for the second reading of the Bill S-14, intituled: "An Act respecting the sale and importation of certain radiation emitting devices".

After debate, and—
The question being put on the motion, it was—
Resolved in the affirmative.

The bill was then read the second time.

The Honourable Senator Fergusson moved, seconded by the Honourable Senator Inman, that the Bill be referred to the Standing Senate Committee on Health, Welfare and Science.

The question being put on the motion, it was—
Resolved in the affirmative.

Robert Fortier,
Clerk of the Senate.

21315—1½

MINUTES OF PROCEEDINGS

THURSDAY, February 5th, 1970.
(3)

Pursuant to adjournment and notice the Standing Senate Committee on Health, Welfare and Science met this day at 10.00 a.m.

Present: The Honourable Senators Belisle, Blois, Bourget, Carter, Fergusson, Hays, Inman, Kinnear, McGrand, Phillips (*Prince*), Quart, Robichaud, Thompson and Yuzyk.—(14)

Present but not of the Committee: The Honourable Senator Grosart.—(1)

In attendance: E. Russell Hopkins, Law Clerk and Parliamentary Counsel.

Upon motion duly put, it was *Resolved* that the Honourable Senator Hays be elected Acting Chairman.

Upon motion, it was *Resolved* to print 800 copies in English and 300 copies in French of the proceedings of the Committee on Bill S-14.

Bill S-14, "An Act respecting the sale and importation of certain radiation emitting devices", was considered.

The following witnesses were heard:

DEPARTMENT OF NATIONAL HEALTH AND WELFARE:

G. McCarthy, Director of Legal Services.
Dr. P. M. Bird, Director, Environmental Health Services.
Dr. A. H. Booth, Chief of Radiation Production Division.

After debate and upon motion, it was *Resolved* that further consideration of the said Bill be postponed.

At 11.30 a.m. the Committee adjourned to the call of the Chairman.

ATTEST:

Patrick J. Savoie,
Clerk of the Committee.

STANDING SENATE COMMITTEE ON HEALTH, WELFARE AND SCIENCE

EVIDENCE

Ottawa, Thursday, February 5, 1970

The Standing Senate Committee on Health, Welfare and Science, to which was referred Bill S-14, an act respecting the sale and importation of certain radiation emitting devices, met this day at 10 a.m. to give consideration to the bill.

Senator Harry Hays (Acting Chairman) in the Chair.

The Acting Chairman: Honourable senators, we have with us Dr. P. M. Bird, Director, Environmental Health Services, and Dr. A. H. Booth, Chief of Radiation Production Division, of the Department of National Health and Welfare.

We should have a motion to print the proceedings both in English and French. It is usual that we print 800 in English and 300 in French.

Senator Blois: Mr. Chairman, do you think that many are actually needed for a meeting such as this? I wonder whether 1,100 people would want copies of it?

The Acting Chairman: What is your wish?

Senator Blois: I am suggesting it for discussion. I am not against it, but it seems to me an excessive amount for something of this nature.

Senator Fergusson: Maybe the technical people consider this to be more important than do honourable senators.

Senator Blois: Does that amount go out usually?

The Committee Clerk: These two numbers are usually the numbers asked in every committee.

Senator Blois: Why print 500 or 600 if they are just burnt? I understand that a great many never go out and they are destroyed.

The Committee Clerk: We have to provide one to each member of the House of Commons, each senator, and the officials of each department. There is also the mailing list from the Queen's Printer.

Senator Quart: I am probably very guilty, but I am sure I would have to move into the Senate Chamber if I kept everything I received on my desk. Perhaps we should have some central point where all this literature could be sent, to be used as a receptacle for some of the documentation that we constantly receive.

Senator Thompson: I agree with this. Perhaps I am remiss as well, but I get an enormous flood of all kinds of documentation which I do not read. I would be very interested in finding out whether it is in the mailing list, apart from the Members of the House of Commons, the Senate and the officials.

Senator Fergusson: Mr. Chairman, do you not think that this is something which should be considered by the Standing Committee on Internal Economy and Contingent Accounts?

Senator Thompson: Yes, to be looked over on a general basis. Could we pass that on, Mr. Chairman?

The Acting Chairman: Yes, I can see that that is done. In the meantime we will go ahead with the usual number.

> Upon motion, it was *resolved* that a verbatim report be made of the proceedings and to recommend that 800 copies in English and 300 copies in French be printed.

The Acting Chairman: It is usual, Dr. Bird, that the witness make a few comments. At this time it would be in order for you to do so. Then I am sure the committee will have some questions to ask you before we deal with the bill clause by clause.

Dr. P. M. Bird, Director, Environmental Health Services, Department of National Health and Welfare: Thank you very much, Mr. Chairman and senators. It is a pleasure to be here this morning to be able to explain further some of the points of this bill. I have read the Senate *Hansard* and feel that Senator Fergusson has described the intent and purpose of the bill very well indeed. I am not sure that much purpose would be served by my trying to go over any of the sections at this stage. I would rather hear questions from you and we can get on with the actual discussion of the points which are of concern to you at this stage. There are two amendments that I think will be proposed. I am not sure what the proper procedure is.

The Acting Chairman: Is it your wish that we go through the bill clause by clause, or would you like to question generally first before we do that?

Senator Grosart: I suggest that we should know what amendments the department is suggesting so that we do not go over that territory twice.

The Acting Chairman: Would you deal with the amendments the department has suggested?

Dr. Bird: Perhaps this is something Mr. McCarthy, our legal adviser could deal with.

The Acting Chairman: We also have here, honourable senators, Mr. McCarthy, Director of Legal Services for the Department of National Health and Welfare.

Mr. G. McCarthy, Director of Legal Services, Department of National Health and Welfare: The first amendment, as I understand it, would be to the first active section, which is section 3. It is intended to distinguish between the subject matter of this bill and considerations that ordinarily would come under the Atomic Energy Control Board. One of the things about which we had to be careful was that, while we were dealing with radiation emitting devices, all atomic energy is radiation emitting and there is a distinguishing point at which our responsibility ceases, perhaps by mutual arrangement, and the Atomic Energy Control Board would assume responsibility from then on. This distinction is made in section 3 in the printed bill, an amendment to which was developed a few days ago in further consultation with the Atomic Energy authorities. Copies of the amendments are now being distributed.

The result of our recent discussion was that the distinction largely turned on the purpose for which the device was designed. If it was a device designed to produce atomic energy it would not be within the responsibility of the minister responsible for administering this bill, but if it were a component or another sort of device which was not intended or not designed to produce atomic energy but might be used as a component or as part of the process of producing atomic energy, and was radiation emitting, then it would come under the purview of this bill.

This all sounds very complex. It certainly is to me, because I am not a physicist. Following that explanation, perhaps either Dr. Bird or Dr. Booth could give such further technical explanation as honourable senators might wish.

The Acting Chairman: Are there any questions honourable senators would like to ask Mr. McCarthy or Dr. Bird?

Senator Blois: We have heard from many honourable senators that some of the colour television sets now being sold are dangerous. Is there any basis for that assertion?

Dr. Bird: The potential radiation hazard from television sets has been under review within the department, and in other countries, for two or three years now. It has been found that a number of sets emit radiation in excess of the recommended limits proposed by the International Commission on Radiological Protection, which have been accepted in both the United States and Canada as the guidelines for such sets and such purposes. We have been carrying out some surveys, both in co-operation with the Department of Transport on production line type sets and on home owner sets, and we have found that some sets do exceed the limits.

Senator Grosart: This bill would not apply to them, would it?

Dr. Bird: This bill could apply. Action is now being taken in the United States so that the limits I have just mentioned will be applied, and there will be a prohibition against production of such sets. However, I understand an exclusion is being introduced in the United States so that sets clearly marketed for export will not be subject to that control provided the country for which they are destined does not have any standards. As a result of the pressure we are under because

of the implications of that, we are currently taking action to introduce regulations under the Hazardous Products Act that would require the same standard about which we are talking to be met here in Canada.

The real reason for using that method at this stage is because of the time limit, so that we do not find we are being made a dumping ground for substandard sets made in the United States between the time their act becomes law and when we take any action under this bill. Commercial installations and the large-scale industrial uses of television would not be subject to control under the Hazardous Products Act, so they would have to be covered by this bill. For this purpose, this bill and the Hazardous Products Act would be complementary.

Senator Grosart: So your first answer was perhaps incorrect. Colour television sets in the home would not come under this bill.

Dr. Bird: I believe they could if we were prepared to wait that long.

Senator Grosart: Under the bill as it stands they could not, because under section 2(h) this bill is limited to radiation in a device designed for medical, scientific, industrial or commercial use. I raise this point because I do not understand why the powers under this bill would be usable in the case of harmful radiation in one of these pieces of equipment or devices in the home. You may say this is under the Hazardous Products Act, but I do not think that is a very good answer.

Mr. McCarthy: I do not think it is simply because it is under the Hazardous Products Act. I think it is because on measurement television sets for use in the home more closely resemble consumer products such as are contemplated by the Hazardous Products Act, under the Minister of Consumer and Corporate Affairs. We have the machinery, know-how and technology to police television sets for radiation, but there is an area in which a division must be made, and it has seemed to us that it is better to exclude these household products from the present bill, as we have done in the definition of "radiation emitting device".

That is the plan at the moment. Radiation from colour television sets is the responsibility of the Minister of Consumer and Corporate Affairs under the Hazardous Products Act, although in point of fact when this begins to work the radiation protection people in our department may supply a lot of the know-how needed to carry out inspections and review these sets from time to time on behalf of the Minister of Consumer and Corporate Affairs.

Senator Grosart: That raises in my mind the question why we have two bills.

Mr. McCarthy: It is because a great deal more is covered in the Hazardous Products Act than would ever logically be suitable to come under this bill. All sorts of other things that present hazards in consumer products, things that have no relation to radiation at all, come under the Hazardous Products Act. They are just hazardous things. But this act applies to a new and growing field of technology that takes in x-rays, laser beams, ultrasonic equipment used in surgery and other things that are not basically consumer products at all but are used, as it is mentioned here, in science, medicine and industry. So that the responsibility on the one hand under the Hazardous Products Act is something protecting the consuming public, more accurately, whereas this act is more specialized in that it takes care of this more advanced and more sophisticated equipment that is undergoing greater change at the present time than household products.

Senator Thompson: I am thinking of a situation where you might have a product that doctors or the medical profession will say has really no medical application; for instance, a vibration chair or something like that. But it may be sold to homes and there would be, therefore, a debate whether it is a medical device that should come under the Radiation Emitting Devices Act or simply a device that should come under the Hazardous Products Act. I do not see why you could not have the full coverage under this act by adding something so that you do not get into legal wrangles about whether this is a consumer product or a medical product. The concern, after all, is to protect the people of Canada.

Mr. McCarthy: Actually, the sort of chair you speak of would have nothing to do with radiation.

Senator Thompson: Well, it could. At the moment it would not, perhaps, but it could.

Mr. McCarthy: It could have, I suppose, if they added such a component, but it is a matter of trying to make a logical division

between medical products and the vast number of consumable objects that do present hazards—everything from the exhaust systems on motor cars to almost all consumable products. At the moment, they are properly the subject of the bill that comes under the Minister of Consumer and Corporate Affairs. Traditionally, the know-how of his department, while capable of policing that area, simply have not had the background, nor are they likely to have the background, of technological information and skills that are needed to produce the sort of enforcement we need under this bill here. It is a highly refined, if you like, version of the Hazardous Products Act, and it has the distinction of not being something that is consumed by the public. These things are contemplated to be used not by the average unskilled person but by professional people and people who do have highly developed skills.

Senator Thompson: Could you see in the future, and this bill is for the future, a situation where a product is held out by a number of people as being of medical use involving a radiation emitting device attached to it—something that would be good, say, for laryngitis or the bones and so on? And the medical profession would adopt the attitude that really it was not of any significance. I don't want to give examples on it, but I can think of a number of products that could use the more advanced knowledge. Then where would this fall? Would it not be a legal case?

Mr. McCarthy: Hypothetically, it might be somewhat in the same category as a colour television set. It is something that does not need professional administration. It is something the actual householder could make use of himself and would consequently be a consumer product, even if it did have some radiation connected with it.

Senator Thompson: But I am suggesting that it would be getting into the household under the guise of being a medical or therapeutic device. Then you would have to go into a legal aspect on this as to whether if falls under your act or fall under the Hazardous Products Act. I am concerned that when you get two acts and you say that it is logical to have a division you can also have gaps.

Senator Grosart: There are three acts all dealing with hazardous products.

Mr. McCarthy: I think the examination of these subjects has shown that it is not practically feasible to attempt a joint administration of these three subjects that I think you have in mind. For instance, the hazardous products business comes under the basic concept, as I understand it, of protecting the public against two things: against fraud and against injury from something which they would use without training and without professional skills of any kind. It is something they obtain and which they are entitled to be able to use according to instructions without hazard to themselves. This is a responsibility and all of these things, of which there is an extremely wide variety, come basically under a piece of legislation to protect the unskilled members of the public.

Senator Grosart: Who will be the minister administering this act?

Mr. McCarthy: The Minister of National Health and Welfare, whereas the other one is the Minister of Consumer and Corporate Affairs.

Senator Grosart: This is the kind of fragmentation that I personally object to. Let me give you an example. If somebody consulted a lawyer about a radiation emitting device, the lawyer would look up the act and say there is an act called the Radiation Emitting Devices Act. He might then say to his client that his product is quite clear under that act. Then later the client might find out that he was liable to prosecution under the Atomic Energy Act or under the Hazardous Products Act. In other words, I suggest that in the first place your title is completely misleading. It does not deal with all radiation emitting devices. It deals with some, and yet it is called *The* Act. This fragmentation is understandable from, if you like, the public service or bureaucratic point of view, but I doubt if it makes sense from the point of view of the public. Surely, they are entitled to have all of these things brought together in one act so they can say, "Here is a certain act which deals with it."

Now, you may say that atomic energy is a very different thing. The atomic energy people, as Senator Thompson well knows, are having their own problems. They have three inspectors for the whole of Canada to deal with all the problems that may arise, all the hazards that may arise, from radiation from atomic energy. In my view it is because of that kind of situation that we have this situation. Why doesn't somebody tackle the whole

problem? You prefer to the public in this act. This is set up to protect the public. "Radiation emitting device" means any device designed for, among other uses, medical use. What does the word "medical" mean there? Does it mean for use by a doctor?

Mr. McCarthy: I think that is what is meant here.

Senator Grosart: That is not the meaning in ordinary English, because, if I take some aspirin this morning that is a medical use of aspirin. Of course it is. Don't suggest that I am reaching, because I am not. It is a medical use. Everybody in this room is using products for medical use in their homes.

The Acting Chairman: Senator Grosart, while I agree with you on these things, after sitting in Banking and Commerce and looking at the revision of the White Paper on taxation, I think sometimes patching and adding a little is better than overhauling the whole thing.

Senator Grosart: I agree with you. I am not suggesting an overhauling of the whole thing. I am just wondering why we take this kind of approach. We have the Hazardous Products Act. It is an outrageous act—it is the one that permits the minister to repeal the act. It is the first time in the history of legislation that we have had that situation, but we have it now. Under that act, the minister has the power to add anything he likes, by regulation, to Schedule A or Schedule B. He can add all these things under that act to Schedule A or Schedule B. Why do we need another act to deal with it under another department?

Mr. McCarthy: With great respect, I suggest that he could not do that under the Hazardous Products Act; it just does not fit. The schedule to the Hazardous Products Act has two parts. Part I says that you will not sell, and then describes things you will not sell. That does not apply to this because we want them to be sold because they are essential to medicine, industry and science. Part II says that you may only sell the following things if they meet certain standards—a certain minimum of flash point, etcetera. Here again we are dealing with things. For instance, a can of enamel you buy in a hardware store and enamel something in your basement within an enclosed place, it must have a flash point which would be reasonably safe—in other words, so that it is not going to explode in your face. These are things the unskilled and untutored person is entitled the protection of. You buy a car and you want to know that the exhaust system of the car will not let fumes come up into your face. This is another consumer protection, I suggest, completely different from other things we have here. We are talking about laser beams for brain surgery and microwaves and ultrasconic waves for chest surgery, which the consumer does not necessarily know anything about and should not be asked to, but with regard to which a manufacturer may produce a piece of equipment which, without examination, might emit harmful radiation. That is what we want to watch.

If I may say so, you are asking, for instance, why coloured television sets are not involved in the sort of bill we have here this morning. I guess that is really the main concern on this thing. Quite frankly as Dr. Bird has suggested, I think it could have been. Actually, at one time this was considered, whether we should contemplate coloured TV sets. I am not suggesting that they could not be under this. I am pointing out the reason why they happen to be lodged under the other act.

Senator Grosart: Taking a coloured TV set, if one were manufactured to be sold, let us say, to a nightclub or a bar, it would come under one act; and if it were sold for home use it is going to come under another act.

Mr. McCarthy: I do not think so. In that instance it is still for use by the consuming public in an unskilled manner.

Senator Grosart: It is being used commercially, in a bar. It is sold for commercial use, to clubs and bars. Would they come under one act, whereas if they were sold for use in the home they would come under another act?

Mr. McCarthy: I do not know, but I would guess, off hand, in either case a coloured TV set comes under the Hazardous Products Act.

The Acting Chairman: You are asking if this particular act takes care of all television importation and manufacturing?

Senator Grosart: I think very clearly from this act, if a TV set is a device, to use the term in the act, which emits radiation in the form of electromagnetic waves having frequencies greater than 10 megacycles per second, would that describe a coloured television set under this bill.

Mr. McCarthy: Yes.

Senator Grosart: Then it would come under this bill, clearly, if it were sold for a commercial purpose. That means that if it is sold to a club it comes under this bill, but you are saying that if it is sold to an individual it goes under another act.

The Acting Chairman: Would not this act cover it, if it was manufactured and imported, at the source?

Senator Grosart: Only if it is for commercial use. As I understand it, it cannot touch use in the home. If it is manufactured for sale to the public it does not come under this act, is that correct?

Mr. McCarthy: Off hand, I could not give a blanket answer to that.

Senator Grosart: This is the crux of what we are dealing with. Does it or not? Under clause 2(h) it states:

> "radiation emitting device" means any device designed for medical, scientific, industrial or commercial use that is capable of producing and emitting radiation;

Mr. McCarthy: Yes. Dealing with your suggestion concerning television sets in the bar, I would say that is not a commercial use. That is my personal view. It is entertainment, and the owner of a bar buys one and turns it on to entertain his customers.

Senator Grosart: Is not he in commerce? Is not everything in his establishment a commercial use? Surely, if we are going to get into this kind of definition we are going to need four pages for an interpretation section. If you are saying to me the sale of a television set for use in commerce is not a commercial use, then I do not understand English.

Mr. McCarthy: Perhaps you would like different words. We are thinking of matters in connection with computerizing...

Senator Grosart: That is fine, but we have to deal with what we are saying and doing. I know what is going to happen. You are going to come along and say, "We will deal with that under the regulations," and I want to avoid that. I want to know what you are going to deal with under the regulations, because that is the substance of this act. The items you describe are going to be in the regulations. For the moment there is not a member of this committee or of Parliament who has the faintest idea what you are prescribing, except in general ways or what you take the authority to prescribe. Perhaps at this time somebody could give us a few examples of things—not "classes" described in technical language...but things.

Mr. McCarthy: Under the commercial heading?

Senator Grosart: Commercial, medical, scientific or industrial.

Senator Thompson: Before that question is answered, following Senator Grosart's point, could I raise a question again using coloured television as the example? This is going to take place in medical schools or hospitals. I would think they are going to use coloured television to show operations. You will have a group of nurses sitting and watching the television. Will this come under this act? This is selling to and setting up in hospitals, and that kind of establishment, television sets. Or would this come under the other act?

Dr. A. H. Booth, Chief of Radiation Production Division, Department of National Health and Welfare: I think one point I should make is that the distinction as between the Hazardous Products Act and this act relies on what the equipment is designed for, not what it is actually used for. These are the words used in the Hazardous Products Act, "equipment designed for household, personal or garden use". The distinction here is whether they are "designed for medical, scientific, industrial or commercial use". It is the question of design intent, not the actual use in particular cases. I think that is the point.

Senator Grosart: This makes it worse, because then I say this was designed for such and such but I am using it in my home.

Dr. Booth: If it is an ordinary colour T.V. set the implication would be that it was designed for personal or home use, and if it happened to be used in a hospital that would not be relevant. If it was a specially designed piece of equipment which was particularly designed for a special purpose, it seems to me that perhaps it would. But then it would come under this bill if it was specially designed for industrial or medical use. There are such pieces of equipment foreseeable, that is very large, special high powered devices which are similar to those used in the home, but are specially designed for industrial or medical use.

Senator Grosart: To get your point across, you have now already had to use the words "specially designed".

Dr. Booth: Yes, it is a question of design intent.

Senator Grosart: What you are saying is that this is inadequate wording.

Dr. Booth: This has to follow on, you see, in order to make a distinction from the Hazardous Products Act.

Senator Grosart: Why make a distinction? Why not say, "Here are hazardous products", and put them all under one act? You may say the reason is that we have a different technical capacity in this department and that department, and therefore we are going to have two acts to suit the convenience of the people in the departments, not the convenience of the public.

Dr. Bird: I wonder if we are remembering that the Hazardous Products Act is worded in such as way that the Minister of National Health and Welfare is empowered to make regulations under Part I of the act as well. The proposal which I mentioned before was that because of the urgency of taking some action to deal with the colour television problem the provisions of the Hazardous Products Act were going to be used at this time at our initiative and with our technical knowledge and expertise to back it up. The act would be used as a vehicle to provide the country with the safety we feel is necessary. All the technical aspects will in fact be referred by the Department of Consumer and Corporate Affairs to the Radiation Protection Division. No action will be taken until members of these departments say that the standards, implementation and actual operation we are talking about will resolve themselves into the people doing the job, but with two different acts. They are the same people.

Senator Grosart: But two different ministers.

Dr. Bird: No, the Minister of National Health and Welfare will be the one who takes the initial action.

Mr. E. Russell Hopkins (Law Clerk and Parliamentary Counsel): May I quote from the Hazardous Products Act:

> (e) "Minister" means the Minister of Consumer and Corporate Affairs and in sec-9 and 10...

Those are the sections which deal with adding to schedules A and B.

> ... includes the Minister of National Health and Welfare.

So there is provision.

Dr. Bird: That is what I am referring to, yes.

Senator Grosart: This does not make it any simpler for the layman or even for the lawyer.

Senator Thompson: We should emphasize why we are trying to narrow in on this. We found in another area with respect to hazardous products that there were regulations to cover them if they went by sea or by air, not if they went by truck. This was discovered through questioning, so I hope you will excuse us, because I think it is very important. As a rather limited layman I am grabbing onto this television set to which reference was made. Assume that in a technical school such as Ryerson that a larger set than the usual consumer set for the home will be used, if it is not already being used, for educational purposes. Which act will cover that? It is not under the Department of Consumer and Corporate Affairs because it is going to an educational institution. You do not cover it because yours are medical, scientific, industrial and commercial. Is this a gap? In other words, children in schools are going to be subjected to the dangers of radiation from colour television.

Dr. Bird: We have considered that in most cases devices of the kind we are concerned about here and trying to cover are going to be developed over a period of time, and that they will go through a research and development phase in a limited application. When it is found that the device works satisfactorily, new and wider uses are found. As you pointed out, looking into the future it was our feeling that this kind of wording would allow us to become involved in that early stage of development. Hopefully we will have had enough input and collaboration with the developers to have taken care of the radiation hazards at that point in time.

At the stage at which they are going to be more widely used, I hope that the radiation problems will be well known and, in fact, will have been licked. There is no real need to make use even of the Hazardous Products Act. The problem has been solved. We have a

problem now because it is a new situation and we have to take account of the *status quo* which exists today. As we have pointed out and as you are aware, technological advances are taking place very rapidly. We do not know what kind of device is going to be generated in the next week or in the next ten years, but if we have this kind of authority to back us up we will become involved at an early stage and hopefully have taken care of these problems.

The Acting Chairman: Are you saying that this would not have been possible under the Hazardous Products Act?

Dr. Bird: I do not think so, but I am not legally trained.

The Acting Chairman: This is what you are concerned about, is it not, Senator Grosart, that an amendment to the Hazardous Products Act might have been appropriate?

Senator Grosart: It seems to me that what we have been told is that you looked at the possibility of amending the Hazardous Products Act and decided that it was easier to foist a new act on the public because of the time element, and so on. The Hazardous Products Act could have been amended to take care of this. It deals with hazards arising from scores and perhaps hundreds of substances. We are just dealing with another set of substances, that is all.

Senator Yuzyk: Could it not be put under a special schedule dealing with what is in this proposed act and still be included in the Hazardous Products Act? What would be the disadvantages in that case?

Dr. Booth: My understanding of it is simply this, that we have a class of goods such as x-ray machines, lasers, et cetera, which seem to fall outside the control of existing acts. The Hazardous Products Act, as I understand it, can be regulated only with respect to household, personal and garden use items. The Atomic Energy Control Act can only apply to devices in which there is a transmutation of elements. There was a gap which was recognized, and this bill is an attempt to fill that gap. The lines have to be drawn in terms of design intent, because that is the way the other acts are drawn. In the Hazardous Products Act the line is drawn so that the intent is if it is designed for household, personal or garden use. I submit that the Atomic Energy Control Act is also drawn with the same kind of design intent, whether the device is designed for production of atomic energy. This bill necessarily has to deal with design intent. I think that was the concept of developing it, to cover this class of device which is dangerous and seemed to fall outside the purview of the other acts.

Senator Thompson: There is to be another act because you see further gaps. I should like to go back, because I did not get an answer. The use of colour television sets in schools, colleges or universities, which is not under this wording of "medical, scientific, industrial or commercial use", do not come under the consumers' act. What act covers the use of colour television in community colleges or universities?

Mr. McCarthy: Are you speaking of the operation of the set?

Senator Thompson: No, I am not. I am speaking of a set which is too large to be sold to a household but would be used for class instruction.

Mr. McCarthy: It is production and sale rather than the installation or operation that you are concerned with?

Senator Thompson: Yes.

Mr. McCarthy: Technically, according to this proposed legislation the production and sale could come under either act, either the Hazardous Products Act or this one.

Senator Thompson: Under what section?

Mr. McCarthy: Under the definition section, 'Radiation emitting device," because it happens accidentally, not intentionally, to emit radiation, which is quite different from most of the things we contemplate by this bill.

Senator Thompson: But under subsection (h) do you not qualify the areas?

Mr. McCarthy: Yes, it might be commercial if it were considered to be part of a commercial operation.

Senator Thompson: Would you consider a university a commercial operation? Could it be legally? I am not a lawyer so I do not know. Frankly, I do not think it would.

Mr. McCarthy: I am inclined to agree with you.

Senator Grosart: It would probably come under "scientific".

Senator Thompson: What if it were an art college?

Mr. McCarthy: These terms are really difficult to define, as you know, especially in legal interpretation. As has been pointed out, what does "medical" mean? What does "scientific" mean? Unless an attempt is made to define them in the definition section, which it is sometimes not too wise to do, you cannot avoid laying yourselves open to a pretty broad interpretation. I have just returned from a long session in Geneva at the United Nations Special Commission on Narcotics, and when we were discussing psychotropic substances 25 countries could not agree what the word "scientific" meant. I agree it is very difficult to make the distinction clear.

Senator Thompson: I would be delighted if this were in the broadest terms. If subsection (h) covered the whole waterfront I would be delighted. Are you telling me it does?

Mr. McCarthy: Not quite the waterfront, no. Perhaps I could also offer this comment. As you know, at the administrative level development of the control of this kind of thing does not happen overnight. When something like this reaches the printed form it is after several years of concern about a growing hazard, when an attempt is made to deal with it in a manner that scientific and practical experience indicates would be the feasible way of trying to achieve a reasonable and very limited control.

When atomic energy first started nobody knows why it came under federal legislation; it was simply picked up. It does not come under the B.N.A. Act; there is nothing about atomic energy in that act. It became subject to a broad field of legislative provisions. This is to some extent a related thing. It is not atomic energy. There are other fields of radiation that we must think about in the design and sale of equipment, and many of these things are extremely dangerous. For example, microwave ovens are used in commercial bakeries, and they can be very harmful. There are all sorts of things requiring special skills that have been developed by our radiation protection people for many years. As you likely know, we have also provided for the health care needed, in collaboration with the Atomic Energy Control Board people, in the use of atomic sources, and so on.

Here again we are in an area between atomic energy on the one hand and the vast field of hazardous products on the other, that goes anywhere from inks used in printing to the exhaust systems of cars. There is an intermediate area which is just as specialized as atomic energy, and takes just as much technical skill, but it does not cover this vast untutored field of hazard covered by the Hazardous Products Act. The question is how to fit it in. It is my own personal feeling that it is by no means on all fours with the Hazardous Products Act, and it is not simply a matter of convenient administration. It is a separate field with entirely separate disciplines from the sorts of things with which the Minister of Consumer and Corporate Affairs will be concerned. This is simply a decision we have arrived at.

Senator Grosart: What field is covered? Is "radiation emitting devices" the field?

Mr. McCarthy: Yes.

Senator Grosart: Why not have section 2(h) read: " 'radiation emitting device' means any device capable of producing and emitting radiation"? Why specify the design intent?

Mr. McCarthy: The intention was that the responsibility would be limited to these areas. For instance, a radiation emitting device would include a cyclotron or an atomic accelerator, of which there are about 40 or 50 in Canada.

Senator Grosart: But you have already included this under the Atomic Energy Act. Leaving aside atomic energy devices, why not amend the section as I suggest? In other words, why limit yourself to this design intent, which will get somebody into trouble, maybe only the poor layman who may run into all sorts of court costs.

The Acting Chairman: You are talking about amending the Hazardous Products Act?

Senator Grosart: No, the bill before us.

The Acting Chairman: How do you want to amend it?

Senator Grosart: I am not saying that I want to amend it. I am really asking Mr. McCarthy if it would not help. Section 2(h) in effect defines this gap area, and says:

> "radiation emitting device" means any device designed for medical, scientific, industrial or commercial use that is capable of producing and emitting radiation.

I suggest, as the definition states in the bill, that "radiation emitting device" means any device capable of producing and emitting radiation. And I say that some amendment may be necessary to avoid confusion. You cannot say that, when I take aspirin, I am not making a medical use of aspirin. Nor can you say in the case of colour television that manufacturers don't design them for commercial use. All manufacturers design some television for commercial use. It may be in a bar. That is a design for commercial use. It is not a design for household use.

I admit that in a way I am arguing against myself here, because what I am saying would probably have the effect of widening the area of conflict between the two acts, or the jurisdiction between the two acts. However, I don't think that this would cause too much trouble because, under your regulations, the devices you specify will bring these manufactured items designed for special uses under your act. You will not take the power to go into the household field away from the Hazardous Products Act.

Mr. McCarthy: Dr. Bird, offhand, do you visualize that we need not concern ourselves with devices that do emit radiation? In response to Senator Grosart's suggestion here, is there any reason why this might not be a feasible suggestion?

Dr. Bird: I think the point is well taken. Dr. Booth is reminding me that quite possibly the reason for the wording here is because of our work with the Department of Justice in preparing this. They were concerned about the relationship between various acts in trying to draw this line of distinction so that there isn't an overlap. In actual fact, since we have said already with respect to the colour television problem, as a particular example, it is still the development of regulatory action under the Hazardous Products Act that will still emanate from our department, and since the people we are talking about are the people administering this, it is the same people. So, in answer to your question, Mr. McCarthy, the answer is simply that I don't see any reason from my point of view or our point of view at the operating level not to do what Senator Grosart suggested. There may be medical or legal reasons why we cannot, though.

Mr. McCarthy: I should like to discuss it with my colleagues in the Department of Justice and with Mr. Hopkins for consideration on this particular point. Subject to that, perhaps we could deal with it.

Senator Fergusson: I would suggest adjourning this meeting so that Mr. McCarthy and Dr. Booth and Dr. Bird would be able to discuss the point and meet with us again.

The Acting Chairman: We could deal with the remainder of the bill, leaving just that one part for further discussion. Is that what you mean?

Senator Fergusson: Yes.

Senator Thompson: I would second Senator Fergusson on that.

The Acting Chairman: Is it agreed?

Hon. Senators: Agreed.

Mr. McCarthy: Dealing with the question of radiation, there was a second amendment on this very point. I don't think it affects the question Senator Grosart has raised. Would you like to have that referred to now before this meeting is adjourned?

Senator Grosart: I don't think it affects my suggestion at all. Interestingly enough, what you are doing is simply bringing in another class.

Mr. McCarthy: The ultrasonic stuff.

Senator Grosart: Yes. This was the very point I was making. If next week you find a third class, I hope you will not have to come back and ask us to pass another act. Between the drafting of this bill and its presentation to us you did find another class and you simply amended your act to take care of that. I am suggesting that that is a sensible way of doing these things, if it is possible to do it that way.

The Acting Chairman: If there is no further discussion on the amendments, we will have to have a motion to approve the amendments.

Senator Fergusson: I make the motion.

The Acting Chairman: Is it agreed?

Hon. Senators: Agreed.

Senator Grosart: I should like to raise a point in connection with paragraph 4. It is the problem of second-hand devices. Has that problem been considered? If the suggestion I made were accepted, it would remove the possible objection that one of these devices that may have been designed for medical use

specifically will, in a second-hand, dangerous state, get into the hands of a non-medical individual. I am thinking particularly of quacks, of which there are a few around. How would the act cover that, or will it cover it?

Mr. McCarthy: Actually, there is a provision in the act so that it applies only from the date of its coming into force. Am I right in that, Dr. Bird? After the date of its coming into force? In the first place, as it does in the Hazardous Products Act in the case of most of our manufactured goods, it allows for the time lag in the manufacturing process.

Dr. Bird: I believe that the act defines both the distributor and the manufacturer, and I would suspect that, if a person owns a device, modifies it and then decides to sell it as a personal sale to someone else, that would not fall within the terms of this act. But if it is bought by a distributor within the definition given here and then is offered for resale, that would fall under this act.

Senator Grosart: I am thinking of a situation where the device, which is hazardous within the class defined by this act, falls into the hands of an individual who is using it. He is not reselling it. Now, the original equipment has been inspected by the department and has been cleared. They say it is fine. On the second-hand basis, and I understand this is happening—Dr. Sullivan has suggested so to me—some quack gets hold of it; he patches it up in some kind of way and it is now dangerous. It was not dangerous when designed or when you cleared it, but it is now dangerous. Will that come under this act? If not, who can deal with it? Because, if you take this whole class out of the Hazardous Products Act, are you not leaving another gap?

Mr. McCarthy: Except that at provincial level...

Senator Grosart: Oh, dear!

Mr. McCarthy: Here again we get into the difficulty, as you know, senator...

Senator Grosart: I am not blaming you for this, Mr. McCarthy.

Mr. McCarthy: The installation and the operation of these things is difficult for us to deal with at the federal level. It is something the provinces can deal with under property and civil rights, as you know. As in various other federal acts, we are bound by certain restrictions. This would be legislation in the field of criminal law prohibiting the sale of things that are substandard. When it is sold we must to a large extent stop our concern at that time and leave it as it is at the moment with the provinces. It is up to the provinces to inspect these things and see that they are not out of commission and see that they are installed properly with proper shielding and so on. Am I right in this, Dr. Bird?

Dr. Bird: Yes.

Mr. McCarthy: That situation will continue. I am not too clear at the moment on the extent to which that would cover your second-hand situation, however.

Senator Grosart: The reason I raise the point is because of the last couple of phrases in clause 4: "...at the time the device was manufactured." I am just wondering if this could not be interpreted as excluding resale from the provisions of this act. Would you look at it with that in mind?

Mr. McCarthy: Yes, we would, sir. Off hand, I do not think it does. I think the second- or third- or fourth-hand would not. It depends again on the date of manufacture as to whether it is covered by this particular legislation or not.

We do have this provision, as Dr. Bird has pointed out, that the act really discusses distributors and manufacturers as persons in the business. So, if you have a doctor who is going out of business and wants to sell his expensive X-ray equipment and some quack buys it, frankly, I do not think we would have responsibility, under this legislation, as to whether or not he could sell it or as to its condition when he sold it. I think we are lacking that area of control under this legislation.

Senator Grosart: It seems to me that the purpose of that phrase in the draftsmanship was to give the authority under the act ongoing effectiveness, but from the way it is drafted I suspect it could be interpreted as being the very opposite. Perhaps you could look at that.

Mr. McCarthy: Yes.

Senator Thompson: In connection with that there is a question I think you have thought about, the X-ray machine for shoes. I do not know if that comes under "medical" or "commercial." As I understand it, when you stuck

your foot under too long this was dangerous, but if you did not it did not have much effect. Where does this come under?

Mr. McCarthy: That is an exact illustration of the difficulty, in that we knew of the danger of the shoe-fitting machines, particularly to children who are shorter and closer to the source of radiation, but we had no authority legislatively to do anything about it. All we could do was campaign with the provinces who did have control, and in several provinces these things have been outlawed now.

The Acting Chairman: Are you telling me that this falls under provincial jurisdiction?

Mr. McCarthy: Yes, the operation and use of that machine.

Dr. Bird: The use and operation, but not the design. This would be dealt with under this.

Senator Grosart: Manufacture, importation and sale.

The Acting Chairman: What about any other machines, after the customer gets into the picture, then it comes under provincial jurisdiction?

Mr. McCarthy: Yes.

The Acting Chairman: That pretty well answers your question, Senator Grosart.

Senator Grosart: I know Mr. McCarthy has my point, and I will not labour it.

I wonder if at this point we could be given a rough listing of the kinds of things that will come under the regulations. We do not really know what the substance we are dealing with is. We have a technical description, but could you give a few examples? We assume there are abuses and things you want to get at. I do not want you to name a particular product or manufacturer, but what are we really dealing with? You have spoken about shoe machines and coloured television sets.

Dr. Booth: I think the first thing that has to be done is to categorize the various machines so that a uniform set of regulations for each category can be established. This is the process we are engaged in now.

The categories under X-ray machines, for example, would have to have different regulations for diagnostic X-ray machines used medically as compared with X-ray machines designed for therapeutic use; also, again, a different category for X-ray machines used industrially. Industrially, there would also be further subdivisions because X-ray machines are used for radiography, for X-raying castings and looking for flaws and that sort of things. That might be a category, and the regulations would be set on the basis of that category.

There are other industrial uses. For example, and I suppose this is really a scientific use, there is X-ray diffraction, a machine to analyze metal structures by means of looking at the reflected X-rays. This is very widely used under the name X-ray diffraction units which have their own special problems and design features we want to regulate.

Then, if you get away from X-rays to the subject of microwaves, microwave ovens are used in the restaurant industry for the quick heating of foods, in automatic vending machines for hot drinks, they are used very widely in hospitals for sterilizing operations, and in research laboratories for special purposes. To give an example of the kind of difficulties you can get into there, the Americans had a report recently where as a test, I guess, they went into the Walter Reed Hospital in Washington. They had about 40-odd sterilizing ovens in the hospital and found that some 36 of them had defective door closures which caused a leakage of radiation out of the door hinge. This is the kind of regulation we would have to look at, that these door closures were adequate and that the interlock systems were adequate, because the radiation is cut off when the door is opened. This depends on a switch which, in some cases, had been found not to be properly adjusted and was poorly designed, so that the door could be slightly ajar and a blast of radiation could come out the crack in the door.

In the field of lasers we are only beginning to come to grips with the problems there. Certainly, the wide use of lasers is looked to, but presently they are used in engineering construction sites for establishing their levels and their straight line relationships in the construction industry. They are used in drilling tools in very hard materials such as diamonds. There are some rather subtle hazards we would have to be dealing with because even the reflections can be harmful.

The Acting Chairman: In welding and that sort of thing?

Dr. Booth: Yes, in special microwelding.

The Acting Chairman: Do you want any more examples, Senator Grosart?

Senator Grosart: On that point, is it not possible that already or very soon some of these devices will be in household use—say the sterilization devices?

Dr. Booth: Very definitely. With regard to microwave ovens, I believe that two or three companies have stated their intention of coming out with such a household product in Canada. Presently you see them more in kitchens of the future, but they are rapidly becoming a reality.

The Acting Chairman: Are these that are coming in from the States not covered now by any act?

Dr. Booth: As far as I am aware they are not.

The Acting Chairman: Because there are lots of them being sold now in our country. They are peddled from door to door.

Senator Grosart: My concern in making that suggestion is that by taking this whole class into this act and limiting yourself to design intent you may be creating another gap by exempting the household use of the very products you are trying to get at.

Dr. Booth: Yes, that is a very good point.

Senator Grosart: Am I correct in assuming with respect to clause 11(2) that in the case of the promulgation of prescriptions by regulation there will be two notices in the *Canada Gazette*, one saying that the minister proposes to make certain regulations, then a later one saying these are the regulations?

> A copy of every regulation or an amendment to a regulation that the Governor in Council proposes to make pursuant to paragraph (a) or (b) of subsection (1) shall be published in the *Canada Gazette* and a reasonable opportunity shall be afforded to manufacturers, distributors and other interested persons to make representations to the Minister with respect thereto.

Will there be two publications?

Mr. McCarthy: There will be a notice served, then a copy of the order in council when it is eventually made.

Senator Grosart: When will the regulations actually be in effect? On the second publication?

Mr. McCarthy: It will depend on the order in council itself whether it will give any lapse of time after the issue of the order or come into force after the order is made. In any event it would be after this period of warning.

Senator Grosart: The period of warning and notice?

Mr. McCarthy: Yes.

Senator Grosart: There is no provision here as there is in the Hazardous Products Act for the setting up of an appeal board. Is there a reason for that? My recollection is that the Hazardous Products Act sets up an appeal board to which the manufacturer or distributor of a prescribed product can appeal. Was there any particular reason for not putting that in this act? It seems to be a useful device and perhaps one that would save the department a good deal of trouble if when a particular device was prescribed and the manufacturer, distributor or importer objected, he would not merely be subject to a fairly arbitrary decision by the minister, but could appeal to a board.

Mr. McCarthy: This was omitted basically because of the experience of the Radiation Production Division and its members' knowledge of and discussions with the manufacturing industry itself. This would not be a case of suddenly imposing a new regulation on the industry. It takes months to design these things. What is intended is that before anything is put into effect, there will be long discussions and ample publication of what is intended. The industry itself can then gear itself to meeting the standards that are acceptable. In that sense the manufacturing industry and the selling industry will have fallen into line as agreeing with the standards or had ample opportunity to come in and discuss them.

Senator Grosart: I agree with that, but on the other hand if a manufacturer or a group of manufacturers feel very strongly that the proposed prescriptions are not desirable, they are still subject to an arbitrary decision. The reason I like the appeal board is that it gets away from this concern we hear over and over again of people that the minister did not know what he was doing. The appeal board is a very useful body in a democratic system. It

moves the responsibility from what some people refer to as the bureaucratic level to the consensus level.

The Acting Chairman: That can be considered.

Mr. McCarthy: Yes.

Senator Thompson: As I understand it there are five inspectors who are to be employed under clause 7.

Dr. Booth: We have five inspectors who are available for this kind of work. I think that is a better way of putting it. They are presently engaged in carrying out inspections to ensure that the atomic energy control regulations are being adhered to. We are concerned with helping the board in the question of licensing the use of radioisotopes to ensure that the terms of the licences are adhered to by the users. This inspection group already has that function. It also has a secondary function of carrying out surveys of x-ray installations in federal departments and hospitals. We believe that the inspection under this act can be absorbed by that group with possibly the addition of one more inspector in the next year or so. Of course, this will depend on how much we find is involved.

Senator Thompson: It seems to be an extraordinarily small number of inspectors, six, to cover these two areas.

Dr. Booth: That is true. The reason for it is that we are dealing with the distributor and the manufacturer. Therefore a relatively few places are involved. Perhaps we will be disillusioned, but we feel that we can deal with the number involved.

Senator Grosart: Under clause 12, the offence and punishment clause, subclause (2), why are the penalties less for importing such devices than for manufacturing them? It would seem to me that it would be the other way around, that it would be harder to get at the importer. I say that because subclause (2) provides certain penalties for infractions under clause 5, but the bill provides for much less penalties for importers.

Mr. McCarthy: Mr. Chairman, this was discussed when the bill was under contemplation and drafting. Of course, these are maximum penalties, as you appreciate. Frankly, the sole reason for making this distinction was to take care of the situation that was also contemplated under the Hazardous Products Act. That is that to very large corporations who would manufacture and sell a $1,000 fine is nothing. To an importer or a small distributor a lesser penalty can be ample to provide the necessary deterrent. A large company, such as the Marconi Company or the Picker X-ray Company, and others, may be in such financial circumstances that if they violate provisions of legislation there should be the ability to impose heavier penalties.

Senator Grosart: I am sure it comes out of experience, but it still does not make sense to me, because the bigger companies might be importers. It is not too important a point, and there must be a reason.

Senator Thompson: We do not put manufacturers in jail, but we do importers.

Mr. McCarthy: We could.

The Acting Chairman: Who would you put in jail?

Mr. McCarthy: The president or the directors.

The Acting Chairman: Senator Fergusson, I think the two amendments should be read into the record.

Senator Fergusson: Yes, they should appear.

I move that on page 2 we strike out paragraph (g) and substitute therefor the following:

> (g) "radiation" means energy in the form of
>
> (i) electromagnetic waves having frequencies greater than ten megacycles per second, and
>
> (ii) ultrasonic waves having frequencies greater than ten kilocycles per second;

The Acting Chairman: Are we agreed?

Hon. Senators: Agreed.

Senator Fergusson: I also move that on page 2 we strike out clause 3 and substitute therefor the following:

> 3. This Act does not apply to any radiation emiting device that is designed primarily for the production of atomic energy within the meaning of the Atomic Energy Control Act.

The Acting Chairman: Are we agreed?

Hon. Senators: Agreed.

The Acting Chairman: There are several things you want us to do in clause 2 (h). This is the one that you would like the department to reconsider and change the wording. Clause 4 is another one that should be looked at. On clause 9. I think somebody said they wanted the appeal checked. Perhaps it is clause 11.

Senator Grosart: The appeal would probably come under clause 11. That would seem to be the logical place if it were decided to provide for it.

Mr. Hopkins: There would have to be a new clause altogether.

Senator Fergusson: I think it would come under clause 11, because that is the regulations clause.

The Acting Chairman: I think it would be a new clause in addition to clause 11.

Senator Grosart: It would not have to be a new clause because it would relate directly to the regulations.

The Acting Chairman: I think that covers the waterfront does it not? Subject to these changes, are we agreed on the other clauses of the bill?

Hon. Senators: Agreed.

The Acting Chairman: Is it agreed to meet again at the call of the Chair?

Hon. Senators: Agreed.

The committee adjourned.

Queen's Printer for Canada, Ottawa, 1970

Second Session—Twenty-eighth Parliament

1969-70

THE SENATE OF CANADA

PROCEEDINGS
OF THE
STANDING SENATE COMMITTEE
ON

HEALTH, WELFARE AND SCIENCE

The Honourable HARRY WM. HAYS, *Acting Chairman*

No. 4

WEDNESDAY, FEBRUARY 18th, 1970

Second and Final Proceedings on Bill S-14,

intituled:

"An Act respecting the sale and importation of certain radiation emitting devices"

WITNESS:

Department of National Health and Welfare:

J. D. McCarthy, Director of Legal Services.

REPORT OF THE COMMITTEE

21317—1

THE SENATE COMMITTEE ON HEALTH, WELFARE AND SCIENCE

The Honourable Maurice Lamontagne, *Chairman*

The Honourable Senators:

Belisle	Fournier (*Madawaska-Restigouche*)	McGrand
Blois	Gladstone	Michaud
Bourget	Hays	Phillips (*Prince*)
Cameron	Hastings	Quart
Carter	Inman	Robichaud
Connolly (*Halifax North*)	Kinnear	Roebuck
Croll	Lamontagne	Smith
Denis	Macdonald (*Cape-Breton*)	Sullivan
Fergusson		Thompson
Fournier (*de Lanaudière*)		Yuzyk—(28)

Ex officio Members: Flynn and Martin

(Quorum 7)

ORDER OF REFERENCE

Extract from the Minutes of the Proceedings of the Senate, Wednesday, January 28th, 1970:

Pursuant to the Order of the Day, the Senate resumed the debate on the motion of the Honourable Senator Fergusson, seconded by the Honourable Senator Inman, for the second reading of the Bill S-14, intituled: "An Act respecting the sale and importation of certain radiation emitting devices".

After debate, and—
The question being put on the motion, it was—
Resolved in the affirmative.

The bill was then read the second time.

The Honourable Senator Fergusson moved, seconded by the Honourable Senator Inman, that the Bill be referred to the Standing Senate Committee on Health, Welfare and Science.

The question being put on the motion, it was—
Resolved in the affirmative.

Robert Fortier,
Clerk of the Senate.

21317—1½

MINUTES OF PROCEEDINGS

WEDNESDAY, February 18th, 1970.
(4)

Pursuant to adjournment and notice the Standing Senate Committee on Health, Welfare and Science met this day at 11.00 a.m.

Present: The Honourable Senators Hays (*Acting Chairman*), Blois, Cameron, Fergusson, Fournier (*de Lanaudière*), Fournier (*Madawaska-Restigouche*), Inman, Macdonald (*Cape Breton*), Robichaud and Yuzyk.

In attendance: E. Russell Hopkins, Law Clerk and Parliamentary Counsel.

Consideration of Bill S-14, "An Act respecting the sale and importation of certain radiation emitting devices", was resumed.

The following witness was heard:

DEPARTMENT OF NATIONAL HEALTH AND WELFARE:

J. D. McCarthy,
Director of Legal Services.

On Motion duly put it was *Resolved* to report the said Bill with the following amendments:

1. *Page 2:* Strike out paragraph (g) of clause 2 and substitute therefor the following:

"(g) "radiation" means energy in the form of

(i) electromagnetic waves having frequencies greater than ten megacycles per second, and

(ii) ultrasonic waves having frequencies greater than ten kilocycles per second;"

2. *Page 2, line 6:* Immediately after the word "designed" insert the word "primarily".

3. *Page 2:* Strike out clause 3 and substitute therefor the following:

"3. This Act does not apply to any radiation emitting device that is designed primarily for the production of atomic energy within the meaning of the Atomic Energy Control Act."

At 11.20 a.m. the Committee adjourned to the call of the Chairman.

ATTEST:

Patrick J. Savoie,
Clerk of the Committee.

REPORT OF THE COMMITTEE

WEDNESDAY, February 18th, 1970.

The Standing Senate Committee on Health, Welfare and Science to which was referred the Bill S-14, intituled: "An Act respecting the sale and importation of certain radiation emitting devices", has in obedience to the order of reference of January 28th, 1970, examined the said Bill and now reports the same with the following amendments:

1. *Page 2:* Strike out paragraph (g) of clause 2 and substitute therefor the following:

   "(g) "radiation" means energy in the form of

   (i) electromagnetic waves having frequencies greater than ten megacycles per second, and

   (ii) ultrasonic waves having frequencies greater than ten kilocycles per second;"

2. *Page 2, line 6:* Immediately after the word "designed" insert the word "primarily".

3. *Page 2:* Strike out clause 3 and substitute therefor the following:

   "3. This Act does not apply to any radiation emitting device that is designed primarily for the production of atomic energy within the meaning of the Atomic Energy Control Act."

Respectfully submitted.

Harry Hays,
Acting Chairman.

STANDING SENATE COMMITTEE ON HEALTH, WELFARE AND SCIENCE

EVIDENCE

Ottawa, Wednesday, February 18, 1970

The Standing Senate Committee on Health, Welfare and Science, to which was referred Bill S-14, respecting the sale and importation of certain radiation emitting devices, met this day at 11 a.m. to give consideration to the bill.

Senator Harry Hays (*Acting Chairman*) in the Chair.

The Acting Chairman: Honourable senators, as you will remember three points in Bill S-14 about which there was some dispute, and possibly it would be better if I read the explanation or have Mr. McCarthy read it. It was in the hands of Senator Fergusson who is the sponsor of the Bill. A copy also was sent to Senator Grossart.

Mr. J. D. McCarthy, Director of Legal Services, Department of National Health and Welfare: Honourable senators, this is my letter to Senator Hays:

> I am writing this to you in your capacity as chairman *pro tem* of the Health, Welfare and Science Committee of the Senate which considered on Thursday last Bill S-14 relating to legislation to control the sale of radiation emitting devices.
>
> As I recall, the bill generally seemed to the committee to be satisfactory but there were three matters all raised, I beleive, by Senator Grossart which we were asked to consider and, if necessary, discuss with those responsible for the preparation of the bill.
>
> 1. It was Senator Grosart's suggestion that consideration should be given as to whether the effect of the bill should be extended to cover the sale of used equipment or sales other than the initial sale upon manufacture and distribution in the first instance. The senator, I think, used as an illustration the situation where a physician might perhaps be retiring and wished to sell valuable x-ray equipment which might be below standard and consequently present a hasard to subsequent operators or patients. The point was, I think, very well taken and one which did warrant adequate consideration. On reviewing this with the technical people concerned in the department, as well as with the persons with whom we worked in the Department of Justice, it seemed to us that it would nevertheless present administrative difficulties out of keeping with the relative advantages derived to attempt to extend the scope of this bill to these "second-hand" transactions.
>
> In the first place installations and operation of equipment of this kind comes well within provincial legislative jurisdiction and is apparently already under effective control at provincial level.

Mr. Chairman, I have learned since that this is not quite accurate in the sense that all provinces have not brought in full measures to place these things under control. The statement that it does come within provincial legislative jurisdiction is quite accurate. The letter continues:

> There is the other point which occurred to us that if even on infrequent occasions of such a second-hand turnover sale were prohibited unless the equipment met current standards, this would, in all likelihood, be tantamount to prohibiting the sale entirely since it would be in most instances impracticable for the practitioner to effect the modifications necessary to bring his equipment up to standard prior to sale.
>
> There is the further point that when the legislation is brought into effect, the chances from then on of equipment being seriously substandard to the point where having once been sold it might subse-

quently present serious hazard, are few. It is our considered view that a more effective administration would omit attempts to cover this type of transaction.

2. Senator Grosart also asked about the absence from the draft of provision for appeal from decisions of the minister or of the Cabinet in so far as equipment specifications and standards were concerned. The situation here resembles more the situation pertaining in the case of motor vehicle manufacture where once the legislation is brought into effect, subsequent manufacture in most instances would maintain conformity from time to time once modifications were made to existing standards. Unlike the somewhat different situation that is found in the Hazardous Products Act, it is not contemplated by the bill that simply by a decision and order-in-council a commodity could be designated out of hand as a hazardous product.

In Bill S-14 there is provision for due warning to be given to the industry of intended changes in standards and specifications as contained in regulations and only after a reasonable lapse of time and in the absence of any change in policy would those intentions be reflected in a change in regulations. In the meantime the comments and views of the industry would be invited (as indeed they are in the administration of other Acts under departmental administration such as the Food and Drugs Act) as to the feasibility and reasonableness in all the circumstances of the proposal for a change in the law. Under these circumstances, like those relating to the other types of long-term manufacture, an appeal procedure is not considered essential to preservation of the rights of the individual manufacturer or distributor.

There is the further point that in the present instance one would be considering safety standards or modifications relating to safety as based upon common domestic and international knowledge and developing technology, it would not be simply a case of deciding that a particular commodity presented a hazard as, of course, is contemplated in relation to numerous commodities to be controlled under the Hazardous Products Act.

3. The third point that Senator Grosart made was, in my personal view, a very good one and it, as you will remember, dealt with the definition of radiation emitting device as contained in paragraph (h) of Section 2. It was the Senator's view that an individual manufacturer or distributor would be unable at time to determine, through reference to this definition, whether or not the device which he had for sale and which perhaps emitted radiation fell within one of the four categories mentioned in the definition, namely, one designed for medical or scientific or industrial or commercial use. Difficulty was seen in determining to attempt any definition of those words. particularly where it was not intended to attempt any definition of those words.

As I think was understood, these were particularly included to indicate the "specialist" nature of the devices intended to be made the subject of this bill and for the purpose of distinguishing them as, I think for practical purposes, they should be distinguished, from the enumerable commodities that might in due course become the subject of the Hazardous Products Act. As I mentioned at the meeting it was considered that the category of devices that we had in mind in contemplating this legislation was considered to be equally distinctive from such hazardous products as indeed were devices and things now coming under the purview of the Atomic Energy Control Act—but again being in a well defined and distinctive category of their own.

The problem envisaged by Senator Grosart is appreciated and I can say that a good deal of thought has been given to a possible solution that would be consistent with the technical and administrative difficulties which are quite visible to those who expect to have the responsibility for giving effect to this legislation. The suggestion we have come up with for consideration of the committee is that in this instance, as in Section 3 of the bill, the word "primarily" may be the answer. We would suggest that the definition be altered simply by adding immediately after the word "designed" in line 6 on page 2 of the bill the word "primarily" so that the definition would then read:

> "(h) "Radiation Emitting Device" means any device designed primarily for medical, scientific, industrial or commer-

cial use that is capable of producing and emitting radiation; and"

We think that this may effect a much greater improvement than is at first obvious. In a word, the effect of this change would be that the determining factor would not be that the machine was actually designed for but rather what the primary purpose of the design might be. The illustration which Senator Thompson gave of the coloured TV set in use in a school or college would, I think, be answered by this in that TV set, if of the sort ordinarily used in private homes, would not come under the definition as so modified not being designed primarily for medical, scientific, industrial or commercial use. (The result in that illustration would then be that the responsibility for that TV set would rest upon the Hazardous Products Act as the legislation is being developed.)

I hope these observations and suggestions are helpful and will enable the committee to complete its consideration of this bill.

The Acting Chairman: I wonder if the committee is agreeable that we deal with these as items 1, 2 and 3. Is that agreed?

Hon. Senators: Agreed.

The Acting Chairman: Are there any questions to Mr. McCarthy or others from the department, on No. 1? This is in connection with the sale of used equipment which Mr. McCarthy explained is the exception of one or two provinces where it is under provincial jurisdiction. It is under jurisdiction, but...

Mr. McCarthy: I am not clear on the state of the law in each of the provinces, but I am quite clear that it is within provincial authority to make provision by legislation to do this sort of thing if they wish.

Senator Fournier (De Lanaudière): But they don't.

Mr. McCarthy: I think it is in Ontario and one or two other provinces, but presumably it would be done in other provinces in due course.

The Acting Chairman: And it is within their jurisdiction, in any event?

Senator Fergusson: That seems to answer that.

The Acting Chairman: Is that agreed?

Hon. Senators: Agreed.

The Acting Chairman: Item 2—this is in connection with the appeal. The department thinks this will be covered. Are there questions to Mr. McCarthy in connection with this? Are we agreed?

Hon. Senators: Agreed.

The Acting Chairman: Item 3—the amendment: in line 6 on page 2 of the bill, to insert the word "primarily".

Senator Fergusson: I would like to move that in line 6 on page 2 of the bill, immediately after the word "designed", we insert the word "primarily".

Senator Fournier (De Lanaudière): What would be the French translation of "primarily"?

E. RUSSELL HOPKINS, LAW CLERK AND PARLIAMENTARY COUNSEL: *"Principalement".*

Senator Fournier (De Lanaudière): "D'abord". You can say "premièrement". You say *"principalement"*, and in my opinion it is "d'abord". It comes first. That is my opinion. I would like to have it discussed.

Mr. Hopkins: I do not qualify as bilingual. All I can say is that the official translators, to whom this matter was addressed, suggested this. I suppose it was a word that would be safe, that might be used. They suggested "principalement".

Senator Robichaud: Both are acceptable. I am wondering, myself. I am not an expert on translation.

Senator Fournier (De Lanaudière): If you use the word "principalement" that leaves the door open to something that would not be principalement. If you say "d'abord", it is different. It comes first. You have to do that first—d'abord, to start with. If you say "principalement" as you mention, you say, "Well, you should give better attention to this, principally". It is not definite. In my opinion it should be "d'abord".

Senator Robichaud: I am inclined to agree with Senator Fournier, that "d'abord" expresses more clearly what "primarily" was intended to mean in this case.

Senator Fournier (De Lanaudière): If you permit me, I have another remark on "primarily". "Primarily" means "first". It does

not mean "principally". It does not mean "principalement" in French; it means "premièrement". "Premièrement" in my opinion is the correct translation of "d'abord".

Mr. McCarthy: I do not know whether it would assist in this discussion to have a look at the translation done in the Department of Justice to the other amendment that has been approved already to clause 3 of the bill. You will remember that we added the word "primarily" in that clause. It read:

> 3. This act does not apply to any radiation emitting device that is designed primarily for the production of atomic energy within the meaning of the Atomic Energy Control Act.

The French translation, if I may read it, is:

> 3. La présente loi ne s'applique pas à un dispositif émettant des radiations qui est essentiellement destiné à la production de l'énergie atomique au sens où l'entend la Loi sur le contrôle de l'énergie atomique.

The words used there, whether they have the same sense or not, apparently are "essentiellement destiné".

Senator Fournier (De Lanaudière): "Essentiellement destiné"—that excludes anything else. By definition "in essence"—"essentiellement", "essentially".

Mr. McCarthy: I did not know whether that would help, Mr. Chairman.

Senator Bourget: There is not much difference, so far as I am concerned, between the words "principalement" and "d'abord". Perhaps a linguist could tell us what the difference is.

Senator Fournier (De Lanaudière): I maintain that the translation of the English word "primarily" should be "d'abord". However, "principalement" would be no mistake.

The Acting Chairman: You could live with it.

Senator Fournier (De Lanaudière): Yes.

Senator Bourget: So far as I am concerned, I don't think we should lose time trying to draw distinction between two words that, in my opinion, are equally good.

The Acting Chairman: There is some division on the question, but at any rate you can live with it, you say?

Senator Fournier (De Lanaudière): Yes.

Senator Bourget: Yes, I can anyway.

The Chairman: Are you agreed, honourable senators, so far as the amendment moved by Senator Fergusson is concerned.

Hon. Senators: Agreed.

The Chairman: Shall we rise and report the bill as amended?

Hon. Senators: Agreed.

The Chairman: Thank you.

The committee adjourned.

Queen's Printer for Canada, Ottawa, 1970

Second Session—Twenty-eighth Parliament

1969-70

THE SENATE OF CANADA

PROCEEDINGS
OF THE
STANDING SENATE COMMITTEE
ON

HEALTH, WELFARE AND SCIENCE

The Honourable MAURICE LAMONTAGNE, *Chairman*

No. 5

WEDNESDAY, MARCH 11, 1969

Complete Proceedings on Bill C-176,

intituled:

"An Act to amend the Company of Young Canadians Act"

WITNESS:

Mr. Robert Rabinovitch, Special Assistant to the Secretary of State of Canada

21319—1

THE SENATE COMMITTEE ON HEALTH, WELFARE AND SCIENCE

The Honourable Maurice Lamontagne, *Chairman*

The Honourable Senators:

Belisle	Fournier (*Madawaska-Restigouche*)	Michaud
Blois	Gladstone	Phillips (*Prince*)
Bourget	Hays	Quart
Cameron	Hastings	Robichaud
Carter	Inman	Roebuck
Connolly (*Halifax North*)	Kinnear	Smith
Croll	Lamontagne	Sullivan
Denis	Macdonald (*Cape-Breton*)	Thompson
Fergusson	McGrand	Yuzyk—(28)
Fournier (*de Lanaudière*)		

Ex officio Members: Flynn and Martin

(Quorum 7)

ORDER OF REFERENCE

Extract from the Minutes of the Proceedings of the Senate, Tuesday, March 10th, 1970:

"Ordered, That the Order of the Day to resume the debate on the motion of the Honourable Senator Carter, seconded by the Honourable Senator Kickham, for the second reading of the Bill C-76, intituled: "An Act to amend the Company of Young Canadians Act", be brought forward.

Pursuant to the Order of the Day, the Senate resumed the debate on the motion of the Honourable Senator Carter, seconded by the Honourable Senator Kickham, for the second reading of the Bill C-176, intituled: "An Act to amend the Company of Young Canadians Act".

After debate, and—
The question being put on the motion, it was—
Resolved in the affirmative.

The Bill was then read the second time.

The Honourable Senator McDonald moved, seconded by the Honourable Senator Smith, that the Bill be referred to the Standing Senate Committee on Health, Welfare and Science.

The question being put on the motion, it was—
Resolved in the affirmative."

ROBERT FORTIER,
Clerk of the Senate.

21319—1½

MINUTES OF PROCEEDINGS

WEDNESDAY, March 11th, 1970.
(5)

Pursuant to adjournment and notice the Standing Senate Committee on Health, Welfare and Science met this day at 2.00 p.m.

Present: The Honourable Senators Lamontagne (*Chairman*), Bourget, Cameron, Gladstone, Robichaud, Smith, Sullivan and Yuzyk. (8)

Present but not of the Committee: The Honourable Senator McDonald (*Moosomin*).

In attendance: E. Russell Hopkins, Law Clerk and Parliamentary Counsel.

On motion of the Honourable Senator Sullivan,

Ordered: That 800 copies in English and 300 copies in French of the proceedings of the Committee on Bill C-176 be printed.

The Committee considered Bill C-176, "An Act to amend the Company of Young Canadians Act'.

On Clause 1:

The Honourable Senator Yuzyk moved that the word "who" at the beginning of line 17, page 1 of the Bill, be deleted and the following substituted therefor:

"of whom at least three shall be elected by volunteer members and the remainder"

Following discussion, the Committee adjourned at 2.30 p.m. until such time as a representative of the Department could be in attendance.

At 3.30 p.m. the Committee resumed.

Present: The Honourable Senators Lamontagne (*Chairman*), Blois, Bourget, Denis, Flynn, Fournier (*Madawaska-Restigouche*), Martin, Robichaud, Smith, Sullivan, Thompson and Yuzyk. (12)

Present but not of the Committee: The Honourable Senator McDonald (*Moosomin*).

In attendance:

E. Russell Hopkins, Law Clerk and Parliamentary Counsel; and
Lewis E. Levy, Legal Advisor to the Department of the Secretary of State.

The following witness was heard:

Robert Rabinovitch, Special Assistant to the Secretary of State.

On Clause 1, the amendment proposed by Senator Yuzyk was negatived *on division.*

Clause 1 was adopted without amendment. Clauses 2 to 7, inclusive, the title and the Bill were adopted without amendment.

The Chairman was instructed to report the Bill without amendment to the Senate.

At 4.05 p.m. the Committee adjourned to the call of the Chairman.

ATTEST:

E. W. Innes,
Acting Clerk of the Committee.

REPORT OF THE COMMITTEE

WEDNESDAY, March 11th, 1970.

The Standing Senate Committee on Health, Welfare and Science to which was referred the Bill C-176, intituled: "An Act to amend the Company of Young Canadians Act", has in obedience to the order of reference of March 10th, 1970, examined the said Bill and now reports the same without amendment.

Respectfully submitted.

Maurice Lamontagne,
Chairman.

STANDING SENATE COMMITTEE ON HEALTH, WELFARE AND SCIENCE

EVIDENCE

Ottawa, Wednesday, March 11, 1970

The Standing Senate Committee on Health, Welfare and Science, to which was referred Bill C-176, An Act to amend the Company of Young Canadians Act, met this day at 2 p.m. to give consideration to the bill.

Senator Maurice Lamontagne (*Chairman*) in the Chair.

The Chairman: Honourable senators, we have a quorum.

Upon motion, of Senator Sullivan, it was *resolved* that a verbatim report be made of the proceedings and to recommend that 800 copies in English and 300 copies in French be printed.

The Chairman: The only item of business is consideration of Bill C-176. Are there any preliminary comments, or should we proceed clause by clause?

Senator Yuzyk: I intend to propose an amendment. Would you prefer that I wait until we wait until we get to the clause?

The Chairman: Yes, I think so, if it is a specific amendment.

Senator Yuzyk: It is a specific amendment.

The Chairman: And it is related to a specific clause?

Senator Yuzyk: Yes.

The Chairman: Shall clause 1 carry?

Senator Yuzyk: I move:

That Bill C-176, to amend the Company of Young Canadians Act be amended by adding, in section 4(1), after the word "members", the words "of whom at least three shall be elected by volunteer members, and the remainder"; and by deleting the word "who" in line 17.

In other words, if the proposed amendment is accepted, that Section 4(1) of the Act would read:

4. (1) There shall be a council of the Company consisting of not less than seven and not more than nine members, of whom at least three shall be elected by volunteer members, and the remainder shall be appointed by the Governor in Council for such terms not exceeding three years as may be fixed by the Governor in Council and who shall administer the affairs of the company.

That would be the new amendment to the amendment proposed in the bill.

Senator Bourget: What is the wording? "shall be elected by members..."

Senator Yuzyk: "By volunteer-members".

Senator Cameron: Are the volunteer-members a legally constituted body? This is the question so far as I am concerned. How can they elect them unless they are a legally constituted body? I am not objecting to this, but I am just asking a question.

Senator Yuzyk: I think originally that there were 10 out of the 15 to be elected by or from the volunteer-members. Now what has happened here is because of the mess that the Company got into, these rights have been taken away entirely from the volunteer-members.

The Chairman: This privilege.

Senator Yuzyk: I guess it would be a privilege. But now they do not of necessity have any voice at all on the Council. They may yet if anybody is appointed, but as far as the act is concerned, there is no voice for them on the Council as such. Now I am not proposing that they should have a majority; I am proposing that their voice should be heard because of the fact that the youth today, as we all know very well, is demanding more and more involvement.

The Chairman: Did they have a majority before?

Senator Yuzyk: Yes, they had 10 out of 15.

Senator Cameron: But who will elect these? Are specific organizations going to elect them or will somebody say "I nominate Joe Doaks"?

Senator Yuzyk: I think since this is a democratic membership they would be elected by the volunteers themselves by ballot.

Senator Sullivan: But who would select the volunteers in the first place?

Senator Robichaud: Can you give us a definition of "volunteers"?

Senator Yuzyk: So far the Company has employed something under 400 volunteers. These are selected by the Company and they are considered to be the volunteer-members who go out into the field and do all the field work and carry out certain projects. There were 38 projects which they were engaged in during the past three years, and I think there will be more than 400 volunteer-members, as I understand the work of the Company, and therefore it would be these volunteer-members who have already been selected by the Company for project work who would be electing, as I am proposing, at least 3 members out of the 7 or 9.

The Chairman: What has been the rate of turnover in the group of volunteers?

Senator Yuzyk: I am sorry, I am afraid I cannot answer that.

The Chairman: I presume the turnover is fairly high. Some come in and some go out. The group is not a very continuous one so that those who would be appointed by a group in one year for a period of 3 years may not be at the end of that term or in the third year representative of those who are then members.

Senator Yuzyk: It is quite possible, but I think in that case we would have to elect alternates just in case some of these volunteers were withdrawn or will have to withdraw, depending upon the situation. But, as I have said, this Company is involved with the youth, and in order to get their confidence, I think this is a good gesture in that direction. I do not see that this in any way takes control. The Council will still have full control, but at least the youth has a voice, and in my view this would establish a system against which they might not fight as much as they would against a system that they felt had been thrust upon them and that was a paternalistic form or structure.

Senator Smith: Apart from the merits of the proposal, I can quite understand the point you are trying to arrive at but I am just wondering if there is not some legalistic deficiency in the whole thing. I do not know what we should do to get a definition of the volunteer-member. Perhaps we should ask Mr. Hopkins our Law Clerk to give us advice on the matter and on the language and what it might mean and might not mean.

Mr. E. Russell Hopkins, Law Clerk and Parliamentary Counsel: Perhaps I might read for the benefit of the committee from the original act setting up the Company of Young Canadians which among other things defines in section 2 (e) a "volunteer-member" as follows:

> (e) "volunteer-member" means a person resident in Canada or elsewhere, who enters upon a period of service with the Company under a contract with the Company, to work upon or in connection with programs or projects of the Company.

That is the definition. Now if I may go one step further and read from section 3 of the same basic act which reads as follows:

> 3. A corporation is hereby established to be known as The Company of Young Canadians, in English, and as La Compagnie des Jeunes Canadiens, in French, consisting of the Council of the Company and persons who are volunteer-members of the Company.

The key section, which the section in this bill would supersede, reads as follows as to the Council:

> 4. (1) There shall be a Council of the Company consisting of fifteen members, who shall administer the affairs of the company.
>
> (2) Of the fifteen members of the Council, ten shall be elected by volunteers-members of the Company...

This is what Senator Yuzyk mentioned...

> ... in such manner and for such terms not exceeding three years as may be prescribed by by-law of the Company approved by the Governor in Council and the remainder shall be appointed by the Governor in Council for such terms not exceeding three years as may be fixed by the Governor in Council.

I gather the remainder would be the other five. Now, it appears as if there has been a change in policy, and I emphasize "in policy", in that no provision is necessarily made in the new bill, nor is there any necessity, for appointing any volunteer-members to the Council, because the new section, as it would be amended by Senator Yuzyk's suggestion, reads that "there shall be a Council of the Company consisting of not less than seven and not more than nine members, who shall be appointed by the Governor in Council". That means all of whom shall be appointed by the Governor in Council. So what Senator Yuzyk is suggesting is a partial return to what has happened before, and I would see no particular legal objection to that, since they follow the same language that was followed before. However, I repeat that it appears to me to be a question of policy, which has been settled upon apparently by the Government in submitting this bill, and, in the absence of any representative of the department, it would be difficult for me, certainly, to pass judgment on the policy aspects of the question.

Senator Smith: I do not think we would except Mr. Hopkins, our Law Clerk, to pass any judgment on matters of policy, but I feel quite strongly, and I tell you straight, that I for one want to be advised by someone on the other side who can speak with authority for the Government. Perhaps we should have a deputy minister before us who could speak with full knowledge and endorsement of the minister so that we would know what their position is. It could develop that we would object to the present policy and find strong enough objections, in agreement with Senator Yuzyk, to provide definitely that the Government's scope shall be restricted by law, not necessarily to include volunteer-members.

The Chairman: Do you know, Senator Yuzyk, whether this matter was raised in the House of Commons when the bill was discussed there?

Senator Yuzyk: Yes.

The Chairman: By whom and in what terms?

Senator Yuzyk: There was quite a long debate on the whole question. The minister, Mr. Pelletier, considered that in order to have the Company function properly this was the best method under the present circumstances.

The Chairman: At least to readjust.

Senator Yuzyk: Yes.

The Chairman: To overcome the past crisis.

Senator Yuzyk: Right, because it was a great crisis. There is no doubt about that, because the minister had to intervene personally. However, my argument is that I can understand why this policy was adopted, but I can also see that it is certainly grounds to alienate the youth entirely. They can raise the whole question and say, "They are leaving us out of this Company altogether and are not giving us a voice." By this act they can state, "We do not have any voice. There is no provision made for any say in the operation of the affairs of the Company or even in the policy-making." I think this is rather too drastic.

Senator Cameron: Would you not think the Government or the minister concerned would ask certain of the recognized youth organizations to nominate individuals the Government might confirm on the council?

Apart from that altogether, I think that we are not warranted in going ahead one minute if the minister or any of his associates are not sufficiently interested in having anyone here today to give an explanation. That is the first thing.

The second thing is that I do not see how the Government or anyone else can appoint three volunteer members who represent no one but themselves. They must represent an organization, and they do not represent an organization because under the terms of the act they must be appointed a member of the Company of Young Canadians, and once they are appointed they cannot be volunteers any more.

Senator Yuzyk: Yet they are defined as volunteer members.

The Chairman: They are defined as volunteer members working for the Company or on a contractual basis for a definite period of time.

Senator Yuzyk: According to the original act they did have the right or, as you call it, the privilege to elect 10 out of 15, which is the majority. I do not see why three cannot be elected by them.

Senator Bourget: I think that is a very important amendment to this bill. As a matter of fact, it is approximately the whole thing right there. I feel personally we should have

the minister and not the deputy minister before us, because it is a question of policy.

Senator Robichaud: I agree with Senator Bourget. If this subamendment were carried it would defeat the amendment to the bill. It would defeat the main purpose for which this amendment is before us today.

Senator Yuzyk: Not necessarily so, I contend, because the Government still has control, still has the majority.

Senator Bourget: But do you not think that in the circumstances, in the light of what has happened in the past, that is a reason why this bill was brought in and why we should accept this for the moment, and then next year, or in two years' time, we may amend it? I understand your point very well. I am not all against it, but for the moment I think we should not accept the amendment unless the minister himself says "Okay," because that is the main point right there.

Senator Robichaud: It seems to me that this amendment would destroy the purpose of the bill.

Senator Smith: Mr. Chairman, we are all interested in doing something for the Company of Young Canadians. I am sure we were all terribly disappointed when we read of the happenings over the last few years. It may be that the Government needs a much stronger hand than it did before, but on a temporary basis. I would rather have the Government err on the side of safety, with there being an understanding that it would not have to necessarily continue in this way.

Another thing that disturbs me a little bit is the fact that we were not given too much notice of this amendment. Senator Yuzyk spoke last night in the Chamber, and that was the first time I or anybody else heard of it. I suppose that the minister's office has also been taken by surprise, otherwise somebody would have been here to defend their position. I still think we should hear from the other side.

Senator Yuzyk: Would it be possible to call the minister to make a statement in this respect?

Senator McDonald: Mr. Chairman, I am not a member of this committee but I have been running in and out of the door as you will have noticed. I have requested that someone from the minister's office appear before this committee, but it is not possible for anyone to appear within the next five or ten minutes. In view of that I suggest that it would be wise to adjourn until later today.

I understand that we shall have only a very short sitting of the House this afternoon. Perhaps the committee could meet again at 4 o'clock, because I think the minister, or an official from his department, should be here to speak to the reasoning behind this bill. We are running in the dark without that explanation.

Senator Cameron: I will move that.

Senator Smith: Before that motion is put may I ask if it would meet the convenience of members if the committee sat as soon as the Senate rises. From what I have been told it seems that we could very well return here at half past three.

Senator Bourget: The minister's office will have to be contacted.

Senator McDonald: I will do that.

Senator Yuzyk: If we cannot get the minister, or somebody from his department, this afternoon, then I suggest the committee should adjourn until tomorrow morning.

Senator Smith: There is one other point. It has been indicated to me that the Government would like to have royal assent given to this bill, along with some others, tomorrow. It would take only one objector to make royal assent tomorrow impossible.

Senator McDonald: We will have to have the committee report today.

The Chairman: I hope that Senator Yuzyk will agree to that because, as far as I am concerned, I would have been ready to vote on this amendment today.

Senator Yuzyk: There is not really that much urgency, is there, Mr. Chairman?

The Chairman: I understand that the minister is going on an international mission in Africa very soon, and if royal assent to this bill is delayed then that might also delay the reorganization of the company.

Senator Yuzyk: Is that so? I know that the minister wanted the bill to be assented to by the end of this month.

The Chairman: I was told by the Leader of the Government in the Senate that he expected royal assent to be given to this bill tomor-

row. Since we shall not be able to report the bill today, you will not object to waiving the rule tomorrow?

Senator Yuzyk: No, I shall not object to that.

The Chairman: We will adjourn now, to reassemble when the Senate rises.

(The committee resumed at 3.30 p.m.)

The Chairman: We have with us Mr. Robert Rabinovitch, Special Assistant to the Secretary of State, and Mr. Lewis E. Levy, Legal Adviser to the Department of the Secretary of State.

I have two things to explain: first of all, the urgency in adopting this bill; and, secondly, the absence of the minister or any other civil servant before us today.

First of all, as to the urgency in adopting the legislation, as you perhaps remember, some time ago there was special legislation passed to appoint a Comptroller who would really be directing the Company of Young Canadians as a result of the crisis last fall. By statute the term of office of this Comptroller will end on March 31 next, so that if the present bill is not adopted before March 31 the Company of Young Canadians will have no one, no group or individual in charge of its administration and direction. So that is why it is a matter of urgency to adopt the legislation.

Senator Flynn: Do you mean the terms of the previous bill would lapse and we would be in the same position as we were before?

The Chairman: No, it would be even worse.

Senator Flynn: Are you sure?

Senator Sullivan: It might be better.

The Chairman: That is my explanation as to the urgency in adopting the legislation.

The second point I want to raise is that this, as you will understand, is not a matter for which the Department of the Secretary of State is responsible, or that the deputy minister or any of his officers are responsible for the administration of that legislation. That is why they did not appear before us earlier. I did not know until 2 o'clock, but the minister has already gone to Africa, via Paris, to attend the international meeting on education, so he is not available to the committee. It would be completely unacceptable to require the Executive Director of the Company of Young Canadians to come here, because this would be a direct conflict of interest, as this is a bill which will have application to his future function, of course. So that is why we have with us this afternoon Mr. Rabinovitch, who is in Mr. Pelletier's office. I think it would be unfair to ask him, in his capacity as an emanation of the minister, to justify before us and give us his views on this policy matter, without his first quoting what the minister had to say in the house; and I think that most of us are not aware of what he said in the house regarding the same amendment when it was before the Commons for consideration.

Due to these unusual circumstances, I think we should allow Mr. Rabinovitch to read these portions of the speech of the minister. They are not very long, but they deal with the substance of the arguments made on behalf of the Government in regard to this amendment.

Senator Smith: Mr. Chairman, just for our record, would you indicate what Mr. Rabinovitch's position is?

The Chairman: He is Special Assistant to the Minister.

Senator Denis: Mr. Chairman, would you introduce the other person present?

The Chairman: This is Mr. Levy, who is the legal counsel to the Department.

These quotations from the speech of the minister appear in the *House of Commons Debates* of February 18, at pages 3770 and 3771.

Mr. Robert Rabinovitch, Special Assistant to the Secretary of State: Thank you, Mr. Chairman. These are direct quotations from Mr. Pelletier's speech in the House of Commons, and they answer an amendment that is similar to the amendment that is before this committee at this time.

> As I was saying, the election or the presence of volunteers on the Council of the Company of Young Canadians creates a conflict of interests on two levels: First of all, on the personal level, because they are called upon to participate in decisions that affect them personally and determine their fate, that determine the allowances paid to them, for instance, and even determine the policy that will guide

the authority that governs them, that is the executive director of the Company.

There is also a collective conflict of interests, so to speak, because, as members of the executive or the Council, they are called upon to decide upon the various CYC projects, including those in which they will participate themselves.

They are called upon to reach decisions, for instance, on the allotment of funds to the various projects, those in which they are participating, as well as those to which the other volunteers devote themselves. Obviously, they have a hidden interest to promote the apportionment of greater funds to the projects on which they are working. I am not saying they will all do that but I say that we are placing them where they will be tempted to prefer their personal interest or the collective interest of their small project to the general interest of the company, to the superior interests of the organization as a whole.

Those are not myths, Mr. Speaker, those are not speculations, but facts. At the time volunteers were a part of the company's council, we witnessed stand-up fights as well as schemes whereby individual interests instead of the superior interests of the company prevailed in the end. That is why upon learning that, the parliamentary committee recommended to change the method of appointing the council of the company.

Mr. Pelletier continued to say:

In order to end the matter, let me say again that if we are to have volunteers in the council, the executive director will have the same people acting as his superiors on the one hand and as his subordinates on the other. The people defining the policy under which he operates will be the very same to whom he will have to apply it. This would create a very difficult situation.

There are, moreover, other ways of ensuring the direct participation of the young. Indeed, under clause 16(2), the volunteers can set up an advisory committee and I daresay that in western Canada and in Quebec, volunteers are already setting up grievance committees to deal on a formal basis with the management of the Company.

Though the proposed amendments suggest that there should be three or four volunteers on the Council, they will hardly make any difference. In order to reach the objective set up by the two hon. members we would need more than a symbolic number barely representative of minority. We would have to revert to the old system which, unfortunately, has proved disastrous.

Besides, the committee has already removed from the government the right to chose the president and the vice-president. This means that the young people themselves will appoint other young people to these two posts.

There is another portion of the speech that I should like to read, and it is as follows:

> Finally, the hon. member for Fraser Valley West maintained that by implementing the proposed amendments, we would alienate the young people, we would keep them away from the Company of Young Canadians. I can alleviate his fears in that respect because something rather strange but at the same time comforting has happened—rather unexpected in any event. In fact, ever since these amendments have been made public through the press and all the mass media, I am advised that applications to the Company of Young Canadians have come in greater number than ever and that they are even more interesting in terms of years of schooling or equivalent experience of the new applicants.

The Chairman: This is more or less the substance of the arguments that were put forward at that time.

Senator Flynn: Mr. Chairman, I have listened to the quotations, and I do not know whether I should put my question to Mr. Rabinovitch or to the legal adviser.

The Chairman: You can put it generally.

Senator Flynn: The minister said he does not want any volunteer to be a member of the council. Would the legal adviser tell me whether the new section 4 prevents the Governor in Council from appointing volunteers. The new section 4 reads:

> (1) There shall be a Council of the Company consisting of not less than seven and not more than nine members, who shall be appointed by the Governor in Council...

The Chairman: I can answer that it is designed to prevent the Government from

making appointments of that kind, but the minister himself has made it clear that they would not be appointees of volunteers. They would certainly make as many appointments as possible of ex-volunteers who have had experience in the field. Then there would not be that conflict of interest where volunteers are playing with public money.

Senator Flynn: Do you agree with me that under the terms of clause 4 the Governor in Council could appoint volunteers?

The Chairman: Yes, but the amendment would make it imperative.

Senator Flynn: But the minister has assured us that he would not appoint other than ex-volunteers.

The Chairman: Pardon me?

Senator Flynn: That he would not make appointments elsewhere than from ex-volunteers.

The Chairman: Well, he said in the house that he would appoint ex-volunteers.

Senator Flynn: But that is not legislation.

The Chairman: No.

Senator Flynn: So we could probably meet the objective of those who wish volunteers to be represented by saying that if they are appointed they should cease to be volunteers. They would devote their attention exclusively to the responsibility as members of the council.

The Chairman: I do not see what improvement that would make.

Senator Flynn: If you do not see it, maybe someone else will. The idea is that the minister would like to appoint ex-volunteers. It may be that some of the volunteers now would like to cease being volunteers and become members of the council.

The Chairman: That is possible.

Senator Flynn: So with that amendment you could probably meet the point made by Senator Yuzyk.

The Chairman: An amendment is not necessary to do that.

Senator Flynn: Yes, it certainly would be necessary. If it is decided to appoint volunteers it should be contained in the legislation. Statements of the minister should not be relied upon.

Senator Martin: The fact is that we know the history of the company and the reasons why a comptroller was appointed for an interim period. It is felt that if the purposes of the company in its present form are going to be met, the provisions of clause 4 are essential. This is the firm view of the minister and those who were concerned with the situation. The point that you have made, with which I thought Senator Flynn was agreeing, but this is apparently not the case, can be met in substance if not in form by the actual provisions of clause 4.

Senator Flynn: I always like to conform with the substance.

Senator Martin: As the chairman said, there is nothing to prevent the Governor in Council appointing volunteers.

Senator Flynn: He said he did not want to. The minister objects to it.

The Chairman: Objects to what?

Senator Flynn: Appointing volunteers.

Senator Martin: That is the present view, but the law is quite clear.

The Chairman: That is my view, too. I have no objection to appointing ex-volunteers.

Senator Flynn: He can do that under this.

The Chairman: Yes.

Senator Flynn: Then why give him the power if he does not want to use it?

Senator Martin: At a given moment he may not want to.

Senator Flynn: No, he did not say at a given moment; he said he would not.

Senator Martin: What is important is the clause itself:

> There shall be a Council of the Company consisting...

Senator Flynn: Should we give a voice to the volunteers themselves? If we appoint three they cease to be volunteers because they have to give their attention to the council.

The Chairman: Would you appoint CBC producers to the board of the CBC?

Senator Flynn: Some of them possibly, the same as you would.

The Chairman: Would you force the Government to do it?

Senator Flynn: No, I would not force anything.

The Chairman: You are forcing it now with the amendment.

Senator Flynn: I am suggesting that the way you put it is entirely in contradiction with the terms of the act.

The Chairman: The way I put it? In what way?

Senator Flynn: The way the minister puts it, because he said he does not want to appoint volunteers, yet he has the power to do it.

The Chairman: That has nothing to do with the amendment.

Senator Denis: He may change his mind.

Senator Flynn: If he changes his mind he should change the legislation. If he is so much opposed to the idea, why does he have the power to do it?

The Chairman: That has nothing to do with the proposed amendment. If you wish to propose another amendment to empower the minister to appoint volunteers, that is another matter.

Senator Flynn: I agree with you that the argument Mr. Rabinovitch put forward and that of Senator Yuzyk was irrelevant.

The Chairman: Why?

Senator Flynn: If you say I am irrelevant, because the amendment would mean that some members would be elected by volunteers.

The Chairman: Yes.

Senator Flynn: There is nothing in the statements of the minister that is opposed to the choice being made by the volunteers themselves.

The Chairman: No, they would have no power to elect members to the council. The minister could appoint volunteers, but volunteers could not appoint their representatives on the council.

Senator Flynn: Their representative could be someone who is not a volunteer.

The Chairman: Yes, but they could not do that the way this bill is drafted.

Senator Flynn: That is right, but with the amendment it would be possible.

Senator Bourget: It is quite clear what the Government wants to do and that is to appoint seven or nine members and nobody else.

Senator Flynn: That is what I said, but the intention which has been indicated by Senator Yuzyk is that the volunteers should have a voice in the selection of three—

Senator Bourget: I understand that is the amendment.

Senator Flynn: Now, the chairman brings in Mr. Rabinovitch to quote the minister saying that he does not want the volunteers to be on the council. That has nothing to do with it, strictly speaking, but he assumes that the persons who would be chosen by the volunteers would be volunteers.

The Chairman: That is a fair assumption, I think.

Senator Flynn: I suggest that it would be a fair assumption if the minister could do the same. My suggestion is that then you could very well reconsider the idea of having the volunteers choose three members. This would not be the majority, but any member so choosing would have to cease to be a volunteer if he was. If you do not want any member of the council to be a volunteer, agreed, but give a voice to the volunteers and if they pick one who is, he would have to give up his status of volunteer to become a member of the council. That is what I suggest and there is nothing illogical about that. It is much more logical than the minister's statement, which is entirely irrelevant to the proposed amendment.

The Chairman: It is certainly not irrelevant.

Senator Flynn: It is entirely irrelevant. You are trying to get ahead of us. You should have waited for the discussion to start to see if Senator Yuzyk would have moved his amendment.

The Chairman: We had a meeting at 2 o'clock, but you were not there.

Senator Flynn: That is all right then. If the reply is to the amendment, it is still irrelevant and more so because you have heard the amendment.

The Chairman: Are there others who wish to speak on this?

Senator Yuzyk: I still think this is a complete reversal of policy.

The Chairman: Of course it is.

Senator Yuzyk: Compared with the original concept.

The Chairman: Of course.

Senator Yuzyk: I would prefer the original concept, if it could be carried out systematically, logically, in order to perform the functions and carry out the objectives of the Company of Young Canadians.

The Chairman: There are a lot of your people in the house who wanted the Company to disappear altogether.

Senator Flynn: Not only on that side.

Senator Yuzyk: Mainly on our side. Now we are in a situation which is really depriving the volunteer from any voice in the council at all. I can understand that this is a process in which the minister would want to have firm control, because he has had to intervene in the affairs of the Company and it was a very embarrassing situation indeed. Still, the way I look at it, it is the Company that selects these very volunteers and therefore it is not the volunteers that we should blame if the criteria are poor and the qualifications have not been carried out.

My main argument is that, sooner or later, if the Company is going to work effectively, they will have to use the volunteers. This is not the same as any ordinary corporation. This is a corporation which involves youth, and youth has involved itself in carrying out the projects. Therefore, the youth should have some say in how to carry out these projects. In time, what is going to happen is that youth is going to object.

The Chairman: Let me interject. They are involved at the moment, because when hired they are hired on a contractual basis after negotiation with the Company. So they are directly involved right at the beginning.

Senator Yuzyk: There is no doubt about the involvement.

The Chairman: It is a personal involvement. Otherwise, they do not sign the contract.

Senator Yuzyk: But according to this legislation, they no longer can have any representation in the council where they can discuss it directly in the council. This is what I mean. Sooner or later, when this process is going through, it is going to be...

Senator Martin: Permit me to point this out. I think the amendment will rather be that hereafter, pursuant to this bill, volunteers will not be themselves elected, by themselves. This section clearly provides that their appointment shall be by the Governor in Council.

Now it is clear. Mr. Pelletier has said that he would not prefer volunteers. That is his view and it may be a view that he persists in. But, under this section, the appointment is going to be made by the Cabinet, by the Governor in Council. Individual members of the Cabinet may very well subscribe to your view at a given moment. I do not know. This is the governing point. You say you would like to have three volunteers, selected by themselves. Well, that is not the policy of the Government.

Senator Yuzyk: I support this democratic feature.

Senator Martin: I see.

Senator Yuzyk: And it still is not the majority in the council, because it is only three. I said three or more, anticipating that if the time came when the volunteers were functioning to the satisfaction of the Company, it might be possible to appoint more, perhaps even coming to the original concept Prime Minister Pearson had in mind.

Senator Martin: I understand your view.

Senator Yuzyk: That is the difference between a regular corporation and the Company of Young Canadians, which is really not a regular corporation.

The Chairman: I am still very much impressed by the conflict of interest issue.

Senator Yuzyk: That is what I don't know enough about.

Senator Flynn: That is why I suggest that the amendment could be supplemented by adding that any volunteer elected would cease to be a volunteer and would devote his attention only to the task of being a member of the Council. That would prevent the minister from appointing someone who would have the conflict of interest about which you are speaking now.

Senator Yuzyk: I still hold that there will always be some conflict of interest in this

kind of situation. Never in my life have I known there to be no conflict of interest between youths and the older generation. Such conflicts will always exist. It depends on whether the conflict is so disruptive that it prevents the work of the Council.

The Chairman: It has proven to be in the past.

Senator Yuzyk: That is because there were too many of them involved, but can that happen when the volunteers are in a minority?

Senator Martin: I understand your point of view and I think you make a very good case from your point of view. The point is that that same case has been made in the other place and the Government takes a different position. The Government says that it wants to appoint through the Cabinet all members of the Council.

Senator Flynn: That is an argument of authority, not of logic.

Senator Martin: That may be, but that is their position.

Senator Bourget: There may be good logic to a position of authority. They may have good reason for holding their position.

Senator Flynn: The leader is appealing to the authority of the Government in saying that, since the Government does not want it, that ends the argument.

Senator Martin: No.

Senator Flynn: That is what you are saying.

Senator Martin: No, no. That is not what I am saying.

The Chairman: It may be an argument more convincing to others than it is to you, Senator Flynn.

Senator Flynn: Of course—to you first.

Senator Martin: I said I can understand Senator Yuzyk's point of view. Moreover that point of view, Senator Yuzyk may be assured, was raised in discussion before this bill ever reached Parliament; but the Government has taken a position and the minister has stated in the other place that he is not prepared, speaking in the name of the Government, to modify his position beyond that.

Senator Flynn: You are speaking as a member of the Government now. You are not speaking as a member of this committee.

Senator Martin: Quite.

Senator Yuzyk: I still do not have any satisfactory explanation of at least how disruptive a conflict can be when the volunteers are in the minority.

Senator Martin: You have followed the workings of this situation in the past years, when the volunteers were in charge, and the serious situation that developed.

Senator Yuzyk: Right.

The Chairman: Did you follow closely the way these elections were made in the past?

Senator Yuzyk: I am afraid I cannot say I followed that aspect of it very closely.

Senator Martin: The Government wants to avoid a repetition of what happened before. It cannot take chances now on this matter. That is why it has taken the strict position it has in section 4. It cannot have a repetition and it does not propose to have a repetition of what happened before. That is the reasoning behind this.

Senator Yuzyk: All I hope is that, if the Government is intransigent in this case, it will be only a temporary measure, because, in the future, it may prove that what I am trying to argue is right, and the youth may look upon this as an establishment which they have to destroy, and you know what youth is like.

Senator Martin: That may be, but I am sure you do not wish any more than I do to see a repetition of the Company of Young Canadians in the early stages, and after the first confusions and the first abuses the volunteers ascended to the council with the consequences that we now know. It is in the light of this experience that the Government has decided that this is the best way to deal with the situation involving the expenditure of public funds in the pursuit of the social objectives behind the Company of Young Canadians.

Senator Yuzyk: But is this a permanent solution or not?

The Chairman: It is not a permanent solution. There is no final solution, I hope.

Senator Denis: If there had not been any complaints about the CYC, there would not

be a bill today. Even if you have only a minority chosen by the volunteers, surely it is better than none at all. There have been complaints which have been substantiated and for that reason we feel the time has come to bring about some kind of control.

Senator Yuzyk: I can understand that, but the very same Company is selecting these volunteers and if the Company has criteria, as it should have, then the type of volunteer who is going to be selected will be the more reliable kind of young person, more reliable than what we have had in the past. This is what I hope is going to happen, and that is why I do not want to see the onus on the vast majority of these volunteers who were not really at fault.

The Chairman: But these people were not interested in running for office. They were interested in doing the job at the practical level.

Senator Yuzyk: That is why I think the selective principle should not be too rigid.

Senator Denis: But it will divide the responsibility to half and half or to one-third.

Senator Yuzyk: There is a very interesting statement by the Minister that since these rigid regulations were suggested, there has been an increase in the number of applications which in itself is a good sign. But what is the type of volunteer we want? We want the type of volunteer who is moderate, constructive, forward-looking and who actually wants to make a contribution and who enjoys working with dedication for the betterment of Canada. This is what we all would like to achieve.

The Chairman: I am sure they will make every attempt to achieve this because this is the only desirable objective. But I am sure you have had the experience in your own life of making appointments, and very often when you make an appointment you are quite sure that you have appointed the right person, but you can make mistakes.

Senator McDonald: Did the Minister not say in the House in his statement that one of the interesting results was—and these are my words, not the Minister's—that there had been an increase in the number of applicants and it appeared that they had better qualifications.

Senator Yuzyk: Does that not come back to my argument that these are the type of people we want to have on the Council.

Senator McDonald: But who knows about this until you get them into the Company when they can prove or disprove themselves. I am not concerned for one moment that the legislation we now have before us is going to be here for good and all. But I fully support the stand of the Government that they have had enough of what has gone in the past. It may well be that the Government has overreacted, but if they have, I am all for it. I am completely convinced that we must get young people into the Company of Young Canadians who really have its interests at heart and who are not bent on destroying it. They should be interested in creating and in giving service to the nation. Those services will undoubtedly be recognized and some day these people will be in control of the Company of Young Canadians. But if they are not able to prove that, they will not be in control, and I do not think anyone at this table would want them to be. I give full marks to the minister for having taken this stand that the Government is going to run this Company until such time as they are convinced there are people in the Company who have the proper attitude to go out and to do the job that all of us, I think, want the Company to do.

Senator Yuzyk: But if the minister made some kind of statement...

Senator McDonald: That is my interpretation of his statement.

Senator Flynn: The Government is more pessimistic than we are.

The Chairman: That is why you are a Conservative.

Senator Flynn: Usually, it is the contrary; but maybe if the Chairman would, on behalf of the minister, assure us that as soon as the situation is under control he will review the legislation...

The Chairman: I am very sorry, but I am sure Senator Flynn will understand that in my capacity as Chairman of this committee I cannot give that undertaking, but I have great confidence in the Minister.

Senator Yuzyk: Yes, but he could change.

The Chairman: Perhaps there will be a better man.

Senator Flynn: Perhaps.

Senator Bourget: I not blame the Government for taking the steps it has taken now, due to what has happened in the past.

Senator Fournier (Madawaska-Restigouche): What is the power of the minister to expel these people in they misbehave?

The Chairman: He has no power at the moment to do that.

Senator Flynn: It is for a term not exceeding three years, and he can appoint them for one year, if he wants to.

Senator Fournier (Madawaska-Restigouche): What is the power of the minister to expel them for bad behaviour?

The Chaiman: He has the power to appoint the members of the Council and the director, but that is all. If the same situation develops again, then he could ask for the resignation of the members of the Council, but previously he could not do that because 10 out of 15 were appointed by the volunteers themselves.

Senator Flynn: I think we have made our point, in any event; it will be the responsibility of the Government.

The Chairman: I see you finally agree with our Leader.

Senator Flynn: No.

Senator Bourget: Let us not start all over again.

Senator Flynn: That is the last thing you should have said, Mr. Chairman.

The Chairman: I know you, and that is why I said it.

Senator Yuyzk: I still do not withdraw my amendment because with the appointed executive and Council...

Some hon. Senators: Question!

The Chairman: You are entitled to your view, Senator Yuzyk. Those in favour of Senator Yuzyk's amendment? Those against the amendment?

The amendment is lost.

Senator Smith: I move that the bill be reported.

The Chairman: Shall clause 1 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 2 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 3 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 4 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 5 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 6 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 7 carry?

Hon. Senators: Carried.

The Chairman: Shall the title carry?

Hon. Senators: Carried.

The Chairman: Shall I report the bill without amendment?

Hon. Senators: Agreed.

The committee adjourned.

Queen's Printer for Canada, Ottawa, 1970

Second Session—Twenty-eighth Parliament
1969-70

THE SENATE OF CANADA

PROCEEDINGS

OF THE

STANDING SENATE COMMITTEE

ON

HEALTH, WELFARE AND SCIENCE

The Honourable H. J. ROBICHAUD, P.C., *Acting Chairman*

No. 6

TUESDAY, MARCH 24, 1970

Complete Proceedings on Bill C-194
intituled:

"An Act to provide supplementary retirement benefits for certain persons in receipt of pensions payable out of the Consolidated Revenue Fund and to amend certain Acts that provide for the payment of those pensions".

WITNESS:

H. D. Clark, Director, Pension and Social Insurance Division, Treasury Board.

REPORT OF THE COMMITTEE

21648—1

THE SENATE COMMITTEE ON HEALTH, WELFARE AND SCIENCE

The Honourable Maurice Lamontagne, *Chairman*

The Honourable Senators:

Belisle	Fournier (*Madawaska Restigouche*)	Michaud
Blois	Gladstone	Phillips (*Prince*)
Bourget	Hays	Quart
Cameron	Hastings	Robichaud
Carter	Inman	Roebuck
Connolly (*Halifax-North*)	Kinnear	Smith
Croll	Lamontagne	Sullivan
Denis	Macdonald (*Cape Breton*)	Thompson
Fergusson	McGrand	Yuzyk—(28)
Fournier (*de Lanaudière*)		

Ex officio Members: Flynn and Martin

(Quorum 7)

ORDER OF REFERENCE

Extract from the Minutes of the Proceedings of the Senate, Tuesday, March 24th, 1970:

With leave of the Senate,

The Order of the Day to resume the debate on the motion of the Honourable Senator Connolly, P.C., seconded by the Honourable Senator Lefrançois, for the second reading of the Bill C-194, intituled: "An Act to provide supplementary retirement benefits for certain persons in receipt of pensions payable out of the Consolidated Revenue Fund and to amend certain Acts that provide for the payment of those pensions", was brought forward.

Pursuant to the Order of the Day, the Senate resumed the debate on the motion of the Honourable Senator Connolly, P.C., seconded by the Honourable Senator Lefrançois, for the second reading of the Bill C-194, intituled: "An Act to provide supplementary retirement benefits for certain persons in receipt of pensions payable out of the Consolidated Revenue Fund and to amend certain Acts that provide for the payment of those pensions".

After debate, and—
The question being put on the motion, it was—
Resolved in the affirmative.

The Bill was then read the second time.

The Honourable Senator Connolly, P.C., moved, seconded by the Honourable Senator Burchill, that the Bill be referred to the Standing Committee on Health, Welfare and Science.

After debate, and—
The question being put on the motion, it was—
Resolved in the affirmative.

ROBERT FORTIER,
Clerk of the Senate.

21648—1½

MINUTES OF PROCEEDINGS

TUESDAY, March 24th, 1970.
(6)

Pursuant to adjournment and notice the Standing Senate Committee on Health, Welfare and Science met this day at 5.20 p.m.

Present: The Honourable Senators Blois, Bourget, Fergusson, Flynn, Fournier (*Madawaska-Restigouche*), Kinnear, Martin, Quart, Robichaud and Yuzyk. (10)

Present but not of the Committee: The Honourable Senators Argue, Aseltine, Burchill, Choquette, Connolly (*Ottawa West*), Haig, McDonald (*Moosomin*), McLean, Urquhart and White. (10)

In attendance: E. Russell Hopkins, Law Clerk and Parliamentary Counsel.

Upon Motion, it was *Resolved* that the Honourable Senator Robichaud be elected *Acting Chairman.*

Upon Motion, it was *Resolved* to print 800 copies in English and 300 copies in French of the proceedings of the Committee on Bill C-194.

Bill C-194, "An Act to provide supplementary retirement benefits for certain persons in receipt of pensions payable out of the Consolidated Revenue Fund and to amend certain Acts that provide for the payment of those pensions", was considered.

The following witness was heard:

H. D. Clark, Director,
Pensions and Social Insurance Division,
Treasury Board.

Upon Motion, it was *Resolved* to report the said Bill without amendment.

At 6.10 p.m. the Committee adjourned to the call of the Chairman.

ATTEST:

Patrick J. Savoie,
Clerk of the Committee.

REPORT OF THE COMMITTEE

TUESDAY, March 24th, 1970.

The Standing Senate Committee on Health, Welfare and Science to which was referred the Bill C-194, intituled: "An Act to provide supplementary retirement benefits for certain persons in receipt of pensions payable out of the Consolidated Revenue Fund and to amend certain Acts that provide for the payment of those pensions", has in obedience to the order of reference of March 24th, 1970, examined the said Bill and now reports the same without amendment.

Respectfully submitted.

H. J. ROBICHAUD,
Acting Chairman.

STANDING SENATE COMMITTEE ON HEALTH, WELFARE AND SCIENCE

EVIDENCE

Ottawa, Tuesday, March 24, 1970.

The Standing Senate Committee on Health, Welfare and Science, to which was referred Bill C-194, an Act to provide supplementary retirement benefits for certain persons in receipt of pensions payable out of the Consolidated Revenue Fund and to amend certain Acts that provide for the payment of those pensions, met this day at 5.30 p.m. to give consideration to the bill.

Senator Hédard Robichaud (*Acting Chairman*) in the Chair.

The Acting Chairman: Honourable senators, we have a quorum.

Upon motion, it was *resolved* that a verbatim report be made of the proceedings and to recommend that 800 copies in English and 300 copies in French be printed.

The Acting Chairman: Honourable senators, I understand from the debate that took place that some honourable senators have a few questions to ask of our witness, Mr. H. D. Clark, the Director of the Pensions and Social Insurance Division, Treasury Board. The meeting is open for questions.

Senator Connolly (Ottawa West): Mr. Chairman, I am not a member of this committee, but I would like to ask Mr. Clark a question. I will not identify the particular senator, but take the case of a senator whose 75th birthday is on April 3, 1973, and to complete six years in the Senate that senator...

Senator Flynn: Do you mean that he has been appointed since June 2, 1965?

Senator Connolly (Ottawa West): Yes—and to complete six years in the Senate that Senator must be a member of the Senate until April 6, 1973. It would appear from a casual inspection of the new legislation—and normally new legislation supersedes old—that this senator would be unable to retire on pension and would miss the opportunity by only three days. Is that senator in that position under this legislation?

Mr. H. D. Clark, Director, Pensions and Social Insurance Division, Treasury Board: Mr. Chairman and Senator Connolly, the senator to whom you refer would have to govern his or her decision by looking at page 10 of the bill, clause 17(1). This is the portion of the legislation dealing with the amendments to the Members of Parliament Retiring Allowances Act which applies to senators summoned to the Senate since June 2, 1965.

The senator to whom Senator Connolly (Ottawa West) referred would fall in this category, and you will see that clause 17(1) reads:

A member

...and "member" is defined as a member of the Senate or the House of Commons...

who was a member on March 31, 1970 may, within one year from that day, elect as prescribed in this section to contribute under this Part and upon making such election Part I shall cease to apply to him.

Part I is the part of the act which will continue to provide pensions based on service in three parliaments for those who decide, for some reason or another, that they do not wish to come under the new part created by this bill, so that this senator to whom Senator Connolly refers would therefore be well advised, I would say, not to make the election contemplated under clause 17(1) and hope that there would be a general election before his 75th birthday.

Senator Connolly (Ottawa West): Before April, 1973.

Mr. Clark: Yes, April, 1973. If there was not an election then this senator is no worse off than he or she is without any amending legislation, because even under the present act

there has to be service in the three Parliaments?

Senator Connolly (Ottawa West): Yes. Well, this Parliament has run for two years now, and in the normal course of events there is an election every four years, which would bring it to 1972. This Parliament was elected in June of 1968, and it must expire by June of 1973. Presumably the Government would not wait that long before calling an election. So, if this senator makes no election under clause 17(1) and goes through another election, then that senator is a member of the third Parliament?

Mr. Clark: That is correct, Senator Connolly.

Senator Connolly (Ottawa West): And he would qualify then for a pension of how much?

Mr. Clark: Well, up until now such a senator would have been building up a pension at the rate of $300 a year. If nothing is done under clause 17(1), once this law goes through instead of accumulating it at $300 a year he would accumulate it at $375 a year, which is a direct consequence of contributing at the level of $15,000 rather than at the present $12,000.

Senator Connolly (Ottawa West): By picking up the arrears?

Mr. Clark: No. In the case of a senator who makes no election under clause 17(1) the higher basis simply starts from the coming into force of this bill. It is the senator who makes the election to transfer from the old to the new who has the option of picking up the extra credits for arrears.

Senator Connolly (Ottawa West): So this senator could not make an election under clause 17(1), and he would not be permitted to pick up arrears?

Mr. Clark: No.

Senator Connolly (Ottawa West): But he would have a pension benefit that would accumulate at the rate of $300 per year under the 1965 act?

Mr. Clark: Yes, that is correct.

Senator Connolly (Ottawa West): And at the rate of $375 a year under this act?

Mr. Clark: That is correct, yes.

Senator Connolly (Ottawa West): And if there is an increase in the indemnity there would be a proportionate increase in the yearly increment of the pension?

Mr. Clark: Yes, that is correct, Senator Connolly.

Senator Bourget: In that particular case, Mr. Clark, having regard to the fact that there is a difference of only three days, when does the employment start? Is it when you are sworn as a member of the Senate, or is it when your account is passed and signed...

Senator Connolly (Ottawa West): It is the date of the order in council.

Senator Flynn: That is right. You are paid from that date.

Senator Robichaud: That is the date upon which you were summoned to the Senate.

Senator Flynn: You are paid from the date of the order in council.

Senator Connolly (Ottawa West): Then I think that answers that question.

Senator McDonald: I wonder if I could ask a question, Mr. Chairman. This is my own case. I was appointed to the Senate on August 13, 1965, so I have served in three parliaments, but I have only five years' service. I gather from the answer that you gave a moment ago that despite the fact that this act calls for six year's service, I would still be qualified.

Mr. Clark: If you did nothing under clause 17(1) you would be qualified. If you elected under clause 17(1) to become subject to the new Part III of this bill, and pay the related contributions that go with that, then you would automatically shift over from the three Parliament eligibility concept to the six complete year concept.

Senator McDonald: But you cannot pick up the difference in the pension from $300 to $450?

Mr. Clark: Not unless you make the election to transfer over.

Senator McDonald: And if you do that you disqualify yourself.

Mr. Clark: Until you have completed six years. There would be a gap there, that is true.

Senator Flynn: And it cannot be repaired once the six years are completed.

Senator White: Mr. Chairman, may I ask if Mr. Clark is referring to senators appointed after the Act of 1965, or to senators appointed prior to the coming into force of that act?

Senator Flynn: This applies to senators appointed after.

Mr. Clark: It was this act that I was referring to, yes, sir.

Senator Connolly (Ottawa West): I wonder if the committee would permit me to ask something else. I have three questions written out here. Could I ask them without interfering with the normal progress of the work of the committee?

First, under the present system, if a senator dies before attaining the age of 75 the widow receives nothing. I think that that is so only if the senator does not retire.

Mr. Clark: That is right.

Senator Connolly (Ottawa West): If he retires on account of ill health then his widow is entitled to her share of the indemnity.

Mr. Clark: Yes, that is right. Here you are referring to a senator who was summoned before...

Senator Connolly (Ottawa West): This is a lifer.

Senator Flynn: Yes, he was appointed before the amendment.

Senator Connolly (Ottawa West): Yes.

Senator Flynn: In short, under the present system a widow is entitled to a pension only if her husband has been granted a pension, or he has resigned because he has reached the age of 75, or because he has become ill.

Senator Connolly (Ottawa West): That is right. The second part of the question is: If he dies at 75 or after, the widow is entitled to one-third of $8,000, or $2,667. I take it that that is not a correct statement for the reason that Senator Flynn has just given. He must first retire even after the age of 75 to enable his widow to get the survivor's benefits.

Mr. Clark: That is right, and that retirement would have to be on grounds of disability, and not a pure resignation because...

Senator Flynn: Yes, that is right.

Senator Connolly (Ottawa West): Here is a lifer who now has another option under this bill?

Mr. Clark: Yes, but even here under this bill, as you say, a senator on a lifetime basis who becomes disabled may resign and qualify not only himself but his widow for a pension. What this bill does is to give those senators another opportunity up to April 1, 1971, to retire on pension regardless of their state of health.

Senator Flynn: Yes, and if they have contributed for more than 18 years the widow's pension will be higher than $2,667?

Mr. Clark: That is right.

Senator Flynn: As I said in the Senate, it is impossible to envisage that case.

Mr. Clark: Yes.

Senator Connolly (Ottawa West): A senator may remain in office one year after he reaches 75. If he should die during that period does the widow receive a pension? I think that the answer to this question would be if he elects to go at 75 now.

Senator Flynn: He would not remain one year, because he retires at 75 on the spot, on the anniversary day.

Senator Connolly (Ottawa West): No, this is a situation where a man is not yet 75 and he indicates between now and April 1, 1971, that he will retire at 75. If that man should die before he reaches 75 then, as I understand this bill, his widow will be entitled to her pension.

Mr. Clark: That is correct.

Senator Urquhart: In this particular case the senator will be 75 in August this year. If he died in July or June would his wife get the $2,660?

Senator Connolly (Ottawa West): If he exercises his option, which he can do between now and June, indicating that he will retire at 75 and should die before he reaches it then he preserves his widow's right to the pension.

Senator Urquhart: But he must state his intention to do it now.

Senator Connolly (Ottawa West): He must do it before his birthday.

Senator Flynn: A big problem is that you have until April 1, 1971, to make that decision, but if you die in the meantime I think you have no benefit.

Senator Connolly (Ottawa West): That is right.

Senator Flynn: The difficulty is that you could have royal assent to the bill tomorrow and even before the forms to which the act refers for resigning are available you may die and you could lose the benefit of a pension.

Mr. Clark: But it would still be open to a senator who was 75 at that time to resign immediately or leave on the grounds of ill health.

Senator Connolly (Ottawa West): Following the other point one step further, correct me if I am wrong: here is a man who is going to become 75 before April 1, 1970. If before his birthday, whether immediately or the day before, he gives notice that he intends to do this, then should die, his widow is protected.

Senator Flynn: That is it, but the problem is in the intervening period. The act gives a delay of a year or so. In the meantime he might die suddenly.

Senator Bourget: Who looks after these forms?

Mr. Clark: I would expect that in the case of the present law the Clerk of the Senate would.

Senator Connolly (Ottawa West): It would be addressed to the Governor General.

Senator Bourget: The case mentioned by Senator Connolly (Ottawa West) applies only to senators appointed before 1965.

Senator Urquhart: Therefore the best thing for that senator to do is signify his intention to retire at 75.

Senator Aseltine: All within the year.

Senator Connolly (Ottawa West): No, he has to retire on his 75th birthday under the present act. There is an extra period of grace when the option under this bill is exercised and you go out on your 75th birthday.

Senator Haig: The lifer has an option to announce his resignation on his 75th birthday before April 1, 1971. If he does that he protects his widow's rights. Is that right?

Senator Flynn: Yes. I would suggest that the counsel of the Senate should prepare some kind of form that we could sign before the official forms are ready, just in case.

Senator Connolly (Ottawa West): Is there provision in this bill for regulations?

Senator Flynn: No, but there is a provision saying...

The Acting Chairman: It is clause 23 at page 24.

Senator Flynn:

> A Senator who has not attained the age of seventy-five years may at any time before April 1, 1971 give notice to the Governor General, in such form and manner as may be prescribed by the Governor in Council, of his intention to resign his place in the Senate on attaining the age of seventy-five years.

Mr. E. Russell Hopkins, Law Clerk and Parliamentary Counsel: Senator Flynn, I should hardly act in place of the Governor in Council.

Senator Flynn: No, but you could put a problem in his lap.

Senator Connolly (Ottawa West): A letter to the Governor General stating the intention of the senator to exercise his option under section 14A of the act to retire on his 75th birthday could be written on the date of Royal Assent and be effective.

Senator Aseltine: He should state the date of his birthday.

The Law Clerk: The matter is in the hands of the Governor in Council but it would be very unlikely that he would pass regulations which would render such a document ineffective.

Senator Flynn: It would not be a matter of form; I am quite sure of that.

The Law Clerk: Substance.

The Acting Chairman: Are there further questions?

Senator Flynn: Referring to section 17A, added by clause 27, I want to make sure that in any case the contributions made since 1965 would be refunded to the estate of the senator or the retired senator.

Mr. Clark: Senator Flynn, as I understand it this refund of the so-called residual amount mentioned in the margin would be payable in the case of any death which occurs in the future. In line 26, for example, the word "dies" is not in the past, but in the present tense. This would apply to any future death.

Senator Flynn: After the coming into force of this act, where a senator dies in office there is no pension payable to his widow?

Mr. Clark: Yes.

Senator Flynn: For any reason whatsoever? The amount of his contributions since 1965 will be refunded to his estate.

Mr. Clark: That is so.

Senator Connolly (Ottawa West): Let us repeat it in another way. Regardless of the pension rights, the minimum amounts that can be received—and this is always available—are the amounts that have been paid in.

Senator Flynn: Regardless of whether an option is made or not, whether you are 75 or under or more, if after the coming into force of this bill a member of the Senate dies while still a senator the contributions are returned to his estate if there is nobody to receive a pension, if there is no widow to receive the pension.

Senator Urquhart: Or if he has not six years' service.

Senator Flynn: Or whatever the reason there is no pension payable.

Senator Bourget: That is one of the important changes made, otherwise it is highway robbery.

Senator Connolly (Ottawa West): This may be technical. I do not say this would apply to any senator today, but suppose a widow had not been living with her husband and he has cut her out of his will. Where does the money go? To his estate or to her?

Senator Flynn: To the estate.

Mr. Clark: You are thinking of the case where he is not granted a pension.

Senator Connolly (Ottawa West): That is right.

Mr. Clark: It says to the estate, or if the amount is less than $1,000...

Senator Choquette: I do not think the answer is that easy. Then you get involved in the common law; you resort to it and see what her rights are. If she lives in circumstances that do not disentitle her to alimony she can claim his estate and she gets it, or gets everything under $20,000. In that case she would have a claim against whatever he has deposited.

Senator Connolly (Ottawa West): That is right.

Senator Flynn: There is no contradiction there. It is an interpretation of the act according to the special circumstances that have been described.

Senator Bourget: This seems to be a discussion between lawyers, but I am not a lawyer.

Senator Flynn: As far as you are concerned, if there is no pension payable to your widow it goes to your estate. It would be in accordance with your will, or if you have made no will it will be payable to your heirs at law.

Senator Urquhart: A senator appointed in January, 1966, will when this bill becomes law now be paying $900 pension contribution per year instead of $720.

Mr. Clark: That is correct.

Senator Urquhart: Can he back up the $180 differential per year so that his pension would be worth $450 per year for each year of service, instead of $300 per year for each year of service?

Mr. Clark: Yes. If such a senator were to make the election under clause 17(1) he can make that additional election under clause 17(2). This would permit him to pick up that extra item of contribution which you mention in respect of sessions before the present one. He is, however, required under clause 18(1)(b) to pay the additional contributions for the whole amount of this current session as a direct consequence of his election under clause 17(1). But two elections would be necessary, one under clause 17(1) and one under clause 17(2) to go right back to January, 1966.

Senator Urquhart: This would be a 75 year appointment.

Mr. Clark: Yes, that is correct.

Senator Urquhart: He would have to make two elections?

Mr. Clark: Yes, one under clause 17(1) and one under clause 17(2).

Senator Argue: How soon can the elections be made?

Mr. Clark: We have finished drafting the regulations, including the election forms, as of this afternoon. They will hopefully go to the Treasury Board on Thursday and then will go to the next meeting of the Governor in Council, following Thursday. I am not certain when that next meeting is. However, I understand that it may not be before April 7, so that would be the likely date, to the best of my knowledge.

Senator Martin: April 6.

Senator Argue: Is the law in effect from Royal Assent, or not at that moment?

Mr. Clark: The law is in effect from the date of Royal Assent.

Senator Argue: Would a letter dated at that time go to a meeting of the council?

Mr. Clark: I can only say that your administrative officers in the Senate have copies of the forms that are being developed. In effect they will not be approved by the Governor in Council before, probably, April 6, as Senator Martin says. It would be a form that would be valid on that day.

Senator Argue: How soon do you have to elect under clause 17(1)?

Mr. Clark: There is a year from March 31, 1970; in other words, until March 31, 1971.

Senator Urquhart: You have a year to elect?

Mr. Clark: To elect, that is right.

Senator Flynn: What is the meaning or consequence of clause 28, adding Part IV? As I understand it, this is in addition to the act making provision for the retirement of members of the Senate, and therefore applicable to senators appointed before June 2, 1965.

Mr. Clark: That is correct, Senator Flynn. This is the part which corresponds to the new parts added to all the acts amended in this bill. This relates to the new plan for the escalating of pensions after retirement—after the pension comes into pay. If I might go back to the opening pages of the bill, it describes how pensions that are now being paid or those that come into pay in the future will be increased year by year in accordance with certain percentages. Now, when the Government announced this was going to be done it coupled with it the statement that this bill would provide for an extra contribution of ½ per cent which the Government would match to meet the cost of these increases. This will start in the month of April, that is both the additional contribution and also the increase in the benefits. In other words, a senator who retired in 1965 on an $8,000 pension would have his pension increased by such and such a per cent in accordance with the table which Senator Connolly (Ottawa West) distributed yesterday.

Senator Flynn: That is an adjustment with regard to the increasing cost of living?

Mr. Clark: That is the basis. Mind you, it is subject to the same ceiling on increases as applies under the Canada Pension Plan which, you will recall, sets a ceiling of 2 per cent a year on this increase.

Senator Flynn: Very good. Thank you.

Senator Quart: Up to now the discussions have been in regard to widows. I am not a widow and I do not have any prospects of any widower. In my case, I would not do anything?

Senator Connolly (Ottawa West): I would not say that, Senator Quart.

Senator Quart: It is enough to look after my own business. Now, to go from the ridiculous to the sensible. In my case, I do not have to do anything? That is, I do not have to elect or anything at all ?

Mr. Clark: No.

Senator Quart: If I lived to be 80 I would still go on in the Senate?

Mr. Clark: Yes. The changes which have been introduced in the law are related primarily to the provision of widows' benefits.

Senator Quart: When you retire with pension?

Mr. Clark: That is right.

Senator Flynn: You are in the same position as a widower. You have no interest.

Senator Connolly (Ottawa West): No interest in survivor benefits.

Senator Urquhart: Mr. Chairman, I have one more question which I would like to ask.

If this bill becomes law, a senator would pay 6 per cent of $15,000 which is $900 per year?

Senator Aseltine: Every senator, no matter what his age.

Mr. Clark: No matter when the senator was appointed. That would be so for a senator under the Members of Parliament Retiring Allowances Act.

Senator Aseltine: It would not matter how old he is or how long he has been here.

Mr. Clark: That is correct; plus the ½ per cent in this new provision which Senator Flynn mentioned and the corresponding provision under the other act. In other words, it will be through the combination of the two provisions, 6½ per cent of the $15,000 which I guess would be $975.

Senator Urquhart: That is not the point I was raising. Six per cent of $15,000 is $900 a year. The pension benefit is $450.

Mr. Clark: That is correct.

Senator Urquhart: Assuming that the indemnities were raised and, let us use the figure of, say $25,000—indemnity and expense allowance—6 per cent of that would be $1,500 a year. What would be the pension benefit per year of service ?

Mr. Clark: This is one of the problems that we had in the drafting of this act in relation to the recommendations in the Curtis Report. We had to relate the benefit formula to the contributions. If you look at page 16 of the bill you will see that paragraphs (c) and (d), in subclause 2, are tied in with the sessional indemnity payable as of March 31, 1970. We do not know what the sessional indemnity may become at the time of a change and it will necessitate an amendment or an addition to these paragraphs in subclause 2 at that time. I just can't tell you what the change will be, because we can't anticipate.

Senator Urquhart: I was just comparing the $900 now to pay under the new legislation and the pension benefit of $450 a year is one-half. Would it apply equally to the $1,500 if the indemnities were $25,000? Could we have a pension equivalent a year of $750 which is half of the $1,500?

Mr. Clark: The act is silent on that. I would only be conjecturing if I said that I guess it would happen that way. This is an amendment which would have to be made at the same time that the Senate and the House of Commons act is amended in order to provide for a change.

Senator Bourget: Would it be 3 per cent of today's 3 per cent for the first 10 years—3 per cent of $15,000 which is $450. If the salary increases to, let us say, $20,000 and $5,000 for expenses, that will be $25,000. Now, 3 per cent of $25,000 is $750. Wouldn't that be the answer?

Mr. Clark: Except, Senator Bourget, you do have this limiting feature in paragraphs (c) and (d) on page 16. I just can't tell you what would happen.

The Acting Chairman: I think the question is hypothetical and we cannot presume that now.

Senator Flynn: As far as senators appointed before 1965 are concerned, the problem does not arise, because it is calculated on the indemnity. For instance, if you got two-thirds of your indemnity as pension. So, if it is two-thirds, you get two-thirds of the increase, and the pension to your widow will be equal to two-ninths of your sessional indemnity or the lesser of 30 per cent of the amount that you contributed, or one-third of your sessional indemnity.

Senator Bourget: That is, those who have been appointed before 1965?

Senator Flynn: Yes, but as Mr. Clark says, it is not provided, but I was trying to reassure you.

Senator Bourget: I was just following the question of Senator Urquhart.

The Acting Chairman: Senator Urquhart's turn will come later.

Senator Bourget: For those who have been members of the House of Commons and appointed before 1965, they cannot go back to 1963?

Mr. Clark: I am afraid not, Senator Bourget.

Senator Bourget: I thought the answer would be no, but I wanted to be sure, because I think members of the House of Commons are entitled to buy previous years.

Senator Flynn: Not before 1963, I think.

Mr. Clark: Not before 1963.

Senator Bourget: I am not too sure.

Mr. Clark: Only if for some reason he had not picked up all his service. A member of the House of Commons who had his full service credit before 1963 cannot do anything more.

Senator Bourget: Thank you very much.

The Acting Chairman: Honourable senators, is it your intention to carry this bill clause by clause?

Hon. Senators: No.

The Acting Chairman: Before a motion is made to carry the bill, I wish to remind honourable senators that you have noticed the sheet given to you with this bill, which carried two amendments made in the House of Commons, and those amendments are not in the present bill.

I will entertain a motion for the adoption of the bill.

Senator Urquhart: I so move.

Senator Bourget: I second.

The Acting Chairman: The question is, that the bill, including the amendments made by the House of Commons, carry?

Hon. Senators: Carried.

The Acting Chairman: Shall I report the bill without amendment?

Hon. Senators: Agreed.

The committee adjourned.

Second Session—Twenty-eighth Parliament

1969-70

THE SENATE OF CANADA

PROCEEDINGS

OF THE

STANDING SENATE COMMITTEE

ON

HEALTH, WELFARE AND SCIENCE

The Honourable H. J. ROBICHAUD, P.C., *Acting Chairman*

No. 7

WEDNESDAY, MAY 6, 1970

THURSDAY, MAY 7, 1970

Complete Proceedings on Bill C-10, intituled:

"An Act to amend the Canada Shipping Act"

WITNESSES:

Department of National Health and Welfare: Dr. W. H. Frost, Senior Medical Adviser, Medical Services; and J. D. McCarthy, Director of Legal Services.

Department of the Secretary of State: R. J. LePocher, Chief, Law Translations Division of the Department of Justice.

REPORT OF THE COMMITTEE

21650—1

THE STANDING SENATE COMMITTEE ON HEALTH, WELFARE AND SCIENCE

The Honourable Maurice Lamontagne, *Chairman*

The Honourable Senators:

Belisle
Blois
Bourget
Cameron
Carter
Connolly (*Halifax North*)
Croll
Denis
Fergusson
Fournier (*de Lanaudière*)
Fournier (*Madawaska-Restigouche*)
Gladstone
Hays
Hastings
Inman
Kinnear
Lamontagne
Macdonald (*Cape Breton*)
McGrand
Michaud
Phillips (*Prince*)
Quart
Robichaud
Roebuck
Smith
Sullivan
Thompson
Yuzyk—(28)

Ex officio Members: Flynn and Martin

(Quorum 7)

ORDER OF REFERENCE

Extract from the Minutes of the Proceedings of the Senate, Thursday, April 30th, 1970:

"Pursuant to the Order of the Day, the Honourable Senator Smith moved, seconded by the Honourable Senator Paterson, that the Bill C-10, intituled: "An Act to amend the Canada Shipping Act", be read the second time.

After debate, and–
The question being put on the motion, it was–
Resolved in the affirmative.

The Bill was then read the second time.

The Honourable Senator Smith moved, seconded by the Honourable Senator Boucher, that the Bill be referred to the Standing Committee on Health, Welfare and Science.

The Question being put on the motion, it was–
Resolved in the affirmative."

ROBERT FORTIER
Clerk of the Senate.

21650–1½

MINUTES OF PROCEEDINGS

Wednesday, May 6, 1970.
(7)

Pursuant to adjournment and notice the Standing Senate Committee on Health, Welfare and Science met this day at 11.00 a.m.

Present: The Honourable Senators Belisle, Cameron, Denis, Fergusson, Fournier (*De Lanaudière*), Fournier (*Madawaska-Restigouche*), Hays, Inman, Kinnear, Macdonald (*Cape Breton*), McGrand, Robichaud and Yuzyk.–(13)

Present but not of the Committee: The Honourable Senator Rattenbury.–(1)

In attendance: E. Russell Hopkins, Law Clerk and Parliamentary Counsel and Pierre Godbout, Assistant Law Clerk and Parliamentary Counsel and Director of Committees.

On Motion of the Honourable Senator Cameron, it was *Resolved* that the Honourable Senator Robichaud be elected Acting Chairman.

Upon Motion duly put, it was *Resolved* to print 800 copies in English and 300 copies in French of the proceedings of the Committee on Bill C-10.

Bill C-10, "An Act to amend the Canada Shipping Act", was considered.

The following witnesses were heard:

DEPARTMENT OF NATIONAL HEALTH AND WELFARE:

Dr. W. H. Frost, Senior Medical Adviser, Medical Services;
and
J. D. McCarthy, Director of Legal Services.

On Motion of the Honourable Senator Fournier (*De Lanaudière*), it was *Resolved* to report the Bill with the following amendment:

In the French version, on page 3, line 2, strike out the word "adresser" and substitute therefor the word "diriger".

At 11.40 a.m. the Committee adjourned to the call of the Chairman.

Thursday, May 7, 1970.
(8)

Pursuant to adjournment and notice the Standing Senate Committee on Health, Welfare and Science met this day at 1.50 p.m.

Present: The Honourable Senators Cameron, Fournier (*De Lanaudière*), Inman, Kinnear, McGrand, Robichaud and Smith.–(7)

In attendance: E. Russell Hopkins, Law Clerk and Parliamentary Counsel and Pierre Godbout, Assistant Law Clerk and Parliamentary Counsel and Director of Committees.

Bill C-10, "An Act to amend the Canada Shipping Act", was further considered.

The following witness was heard:

DEPARTMENT OF THE SECRETARY OF STATE:

R. J. LePocher, Chief,
Law Translations Division of the Department of Justice.

The Honourable Senator Fournier (*De Lanaudière*) moved that the amendment adopted to Bill C-10 be rescinded. The motion was agreed upon and it was *Resolved* to report the said Bill without amendment.

At 2.00 p.m. the Committee adjourned to the call of the Chairman.

ATTEST:

Patrick J. Savoie,
Clerk of the Committee.

REPORT OF THE COMMITTEE

Thursday, May 7th, 1970.

The Standing Senate Committee on Health, Welfare and Science to which was referred the Bill C-10, intituled: "An Act to amend the Canada Shipping Act", has in obedience to the order of reference of April 30th, 1970, examined the said Bill and now reports the same without amendment.

All which is respectfully submitted.

H. J. Robichaud,
Acting Chairman.

THE STANDING SENATE COMMITTEE ON HEALTH, WELFARE AND SCIENCE

EVIDENCE

Ottawa, Wednesday, May 6, 1970.

The Standing Senate Committee on Health, Welfare and Science, to which was referred Bill C-10, to amend the Canada Shipping Act, met this day at 11 a.m. to give consideration to the bill.

The Clerk of the Committee: Honourable senators, in the absence of the chairman is it your pleasure to elect an acting chairman.

Senator Cameron: I move that Senator Robichaud be the acting chairman.

The Clerk of the Committee: Is it agreed that Senator Robichaud be acting chairman?

Hon. Senators: Agreed.

Senator Hedard Robichaud (*Acting Chairman*) in the Chair.

The Acting Chairman: Honourable senators, I see a quorum. Before we commence I would entertain a motion with respect to the printing of the committee's proceedings.

> Upon motion, it was *resolved* that a verbatim report be made of the proceedings and to recommend that 800 copies in English and 300 copies in French be printed.

We have before us for consideration this morning Bill C-10, an Act to amend the Canada Shipping Act. As witnesses from the Department of National Health and Welfare we have Dr. Frost, the senior medical adviser of the Medical Services Branch, of the Department, and also Mr. McCarthy, the Director of Legal Services. I am sure that the members of the committee have questions to ask of the witnesses, but before we proceed to those questions, I think I should ask Mr. McCarthy to give us a brief explanation of the bill.

Mr. J. D. McCarthy, Director of Legal Services, Department of National Health and Welfare: Mr. Chairman, briefly the purpose of the bill is to phase out legislation that has been on the statute books for many years and which has provided over those years to the members of the crews of foreign-going ships calling at Canadian ports, and optionally to the crews of Canadian fishing vessels, free medical care in the case of their being injured or ill while on board and while calling at a Canadian port. With the advent of hospital insurance and medicare the significance of this program, in so far as Canadian crew-men are concerned, is disappearing rapidly, and the need for it in so far as the crews of foreign boats are concerned is also altering in that, as I understand from the Medical Services Branch, most countries now have systems by which they provide some sort of medical plan of insurance for the members of the crews of ships registered in those countries.

As to the mechanics of the bill, as of January 1, 1971 the provision of free medical care to the members of foreign crews will no longer be provided, nor will they after that time be required as they are now by law to pay a fee based on tonnage if they call at Canadian ports to take care of this. So, the collection of the fee and the provision of medical care will cease as far as foreign boats are concerned as of the beginning of next year, with the passage of this bill.

So far as Canadian fishing vessels are concerned, they are at the moment not required, as are foreign boats, to pay dues under Part V of the Canadian Shipping Act, but the skippers of Canadian fishing vessels may do so if they wish, and if they do then the members of their crews are covered for medical care at the present time.

The other chief provision of the bill is that it will eliminate medical care for those Canadian crew-men who reside in any province that participates in Medicare, and it would appear that during the present year all provinces concerned will be participating provinces in Medicare, and the phasing out of this part of this programme, therefore, will coincide with the termination of the provision of this service to foreign vessels.

One other feature that I might mention, Mr. Chairman, is the insertion in the Canada Shipping Act of a new section which specifically makes it the responsibility of the owners of foreign ships to take care of any medical costs that are incurred in Canada for members of their crews who are injured or who become sick while on board.

Perhaps that is sufficient as an opening statement.

The Acting Chairman: Thank you, Mr. McCarthy. Are there any questions?

Senator Fournier (Madawaska-Restigouche): When you say "free medical care" how far do you go? Do you include everything, such as doctor's fees, operations, and so on?

Mr. McCarthy: Yes, everything was covered. The wording of the present act is such that it covers such things that were not intended in the first place, but which have come into the program. I am thinking of take-home drugs, for instance. These have been provided, and this practice simply grew up without there being any particular reference to it. It was a broad, comprehensive medical care program for these people.

Senator Fournier (Madawaska-Restigouche): How many centres do we have in Canada, such as the one in Saint-John, for instance?

Mr. McCarthy: Perhaps Dr. Frost can answer that.

Dr. W.H. Frost, Senior Medical Adviser, Medical Services Branch, Department of National Health and Welfare: I think there were about 400 doctors who worked under this act. There were doctors in almost every hamlet who were looking after sick mariners. Our large operations were in Halifax, Sydney, Saint John, New Brunswick, Quebec, Montreal, and Vancouver, and there was also a smaller one at Victoria.

Senator Cameron: Mr. Chairman, Mr. McCarthy said that as of this year all of the provinces would be providing medical services. This assumes that the Quebec program will be coming into effect during 1970; is that correct?

Mr. McCarthy: That is right.

Senator Cameron: But that is not a fact as of now?

Mr. McCarthy: It is based upon that assumption, senator.

Senator Belisle: Dr. Frost, if this legislation had been in effect would it have prevented this case that occurred in British Columbia where a ship came into port carrying some disease.

Dr. Frost: Actually, the provisions of this act did not apply in that case except in respect to the sick members of the crew who were working on the ship. The stewards and other people who developed the disease were hospitalized at the expense of our department under this act.

Senator Cameron: The passengers were not covered?

Dr. Frost: No, the passengers were not covered. The act covers only the members of the crew.

Senator Belisle: But the passengers will now be covered under this bill?

Dr. Frost: No, this act has never applied to passengers.

Senator Rattenbury: Mr. Chairman, it is rather difficult to separate the wheat from the chaff in this business concerning fishermen and foreign-going sailors, but I would like to know from the witnesses what is the basic reason for changing the act. Mr. McCarthy intimated that this bill would result in an updating of the act in relation to other countries.

Mr. McCarthy: The basic reason is that the system is running at a great financial loss annually to the Government.

Senator Rattenbury: What is the loss?

Mr. McCarthy: Perhaps Dr. Frost has that figure. I think it is in the neighbourhood of $200,000 or $300,000 a year.

Dr. Frost: I see a figure here for 1968-69 of a net loss of $172,000.

Senator Rattenbury: That, I suppose, is the result of bringing the fishermen under the act?

Dr. Frost: That is chiefly the reason, yes, sir.

Senator Rattenbury: If you separated the cost of Medicare, and allowed the Canadian fishermen to be

taken care of by Medicare, would the act be viable then?

Mr. McCarthy: It might be. I am not really sure. I do not know what the figure would be in that case.

Senator Rattenbury: I visualize problems arising. Canada is a maritime nation, and with foreign ships coming into Canadian ports we should live up to our obligations to visitors to our shores. As I said in the Senate when this bill was introduced, it is difficult enough for a Canadian citizen to have a doctor call at any time he is required. What is going to happen when a foreign ship enters port in the middle of the night needing medical care urgently. Is it left to the discretion of the wind, or is it going to be taken care of?

Dr. Frost: I suppose the department could still operate the sick mariners' clinics in the larger places, if it wished, but in that case it would have to charge the ships for the service.

Senator Rattenbury: The ships are paying now are they not?

Dr. Frost: They would have to be charged directly. In answer to the first part of your question, the expenditure in respect of foreign vessels in 1968-69 was $539,000, and the revenue was $737,000. There was actually a surplus of $197,923 in connection with foreign boats, which was unusually large. In other years that figure has been much smaller, but in recent years there has been an excess of the amount collected over the amount spent, but this has changed over the years. The reason for this is that the ships are more highly automated now.

Senator Rattenbury: Yes, the ships have smaller crews, but the tonnage remains.

Dr. Frost: Yes. During the war the crews of ships were much older. When we looked after the ships travelling in convoy during the last war, all the young men were in the Navy, and the older people were on the merchant ships. Consequently, the costs were much higher.

The Acting Chairman: Dr. Frost, would you know what is the practice in other shipping countries?

Dr. Frost: I understand that the United States still collects sick mariners' dues, but they go to support marine hospitals. People who reside in the United States and who work on United States ships can get free treatment at marine hospitals, but people off other ships are charged fees for the use of marine hospitals, even though the ships still pay the sick mariners' dues. The situation varies from country to country, I understand that Peru and a couple of other countries have acts that are somewhat similar to this one.

Senator Rattenbury: Let us talk about Commonwealth countries—Australia, New Zealand, and so on. Let us get closer to home.

Dr. Frost: In the United Kingdom everyone can get free services under their hospital insurance plan.

Senator Rattenbury: And it does not matter whether he be a tinker, tailor, or sailor?

Dr. Frost: Yes. In Australia I understand a charge is made now, and I am not sure about New Zealand.

Senator Rattenbury: My only objection to the bill is the one I have just stated, namely, a situation might arise when urgent medical attention is required.

Dr. Frost: I think, sir, what usually happens here is that the agent of the ship will send the sick person to the doctor with whom he has an arrangement, or to the hospital with which he has an arrangement. The only case in which I can see some difficulty arising is that of a ship that does not come here very often—a tramp ship that has not any agent or, an agent who is not authorized to spend for the ship. If the owner is in the Far East or some such place then it might be difficult for a hospital to collect, especially if the crew member has been left behind for some time.

Senator Macdonald: What if a seaman if taken sick on board ship and the coastguard goes out and brings him into hospital, and the ship does not enter port at all? You have the same problem in that case.

Dr. Frost: Yes, that is quite true; the same problem exists in that case.

Senator Rattenbury: It used to be that hospitals would sort of exercise the right to proceed under the provisions relating to sick mariners, and the port doctor would go on board and push the sick man off to the hospital where he would receive adequate care. As you say, in the case of a tramp vessel, it is sometimes more difficult to find an agent in the middle of the night than it is to find a doctor. My concern is as to whether there has been adequate thought given to what is going to happen in the future.

Mr. McCarthy: Mr. Chairman, it might be a point of interest in this discussion to mention that a week or so ago I received a telephone call from a member of one of the embassies in Ottawa about a different matter, and he happened to ask me what had happened to the amendment to the Canada Shipping Act. I told him the stage at which this legislation was, and he said, "We are looking forward to the repeal of that act." I asked him the reason for this and he said, "Well, in our country members of crews of ships are covered by a national health insurance plan. I might tell you that when a member of the crew of one of our ships becomes sick or injured in a Canadian port and is cared for under Part V of your Canada Shipping Act, that medical plan at home makes a profit because it has already collected the dues and it is not stuck for any of the expense. I thought I should just mention that. Actually, it is a duplication, and it is confusing to our people. It would simplify matters for us if this bill that you are talking about is passed." This is just one country, and I do not know whether there are similar feelings in other countries.

Another point I think I should mention following Dr. Frosts comment, is that even with the repeal of this act in so far as the crews of foreign ships are concerned, the facilities that have been available in terms of care for these people in the past would to a large extent continue. I believe this is correct. So, the procedures that were followed in the past to take care of crew members in the event of injury and so on can be followed. The basic difference would simply be that instead of having the medical care provided free in future, it would be a case of the owners of the ship being responsible for it. But, the availability of medical care—although I stand to be corrected on this—would remain largely as it is at the moment, and it would remain simply a case of finding a doctor or a hospital to take care of the sick person.

Senator Rattenbury: It is a big difference, though.

Mr. McCarthy: Yes, it is a big difference.

Senator Rattenbury: Perhaps, Mr. Chairman, part of my objection can be overcome if the department concerned would issue a directive to the Shipping Federation to let them know what is happening, so that they can make recommendations as to agents retaining the services of a doctor, in the same way that a businessman retains the services of a lawyer against the event of his getting into trouble. I can see problems arising from this.

Mr. McCarthy: I am not on the medical side of the problem, but my understanding is that the problem would not be one of procedure, but one of the physical availability of sources of care, and of administration from the standpoint of payment, and so on.

Senator Rattenbury: Yes.

Mr. McCarthy: That would be the difference in the effect of this thing.

Senator Rattenbury: I do not think there would be any problem in respect of paying for it. The agents themselves would become responsible for payment.

Mr. McCarthy: Yes, in most cases.

Senator Rattenbury: Yes, there would be no problem there. I am just concerned about the cessation of something that has gone on for a century or more—I do not know the exact length of time—and the implementation of a new system.

Mr. McCarthy: Actually, I think this started in the Province of New Brunswick.

Senator Rattenbury: Yes, it started in Saint John, New Brunswick.

Mr. McCarthy: Yes, about a century ago, and it was chiefly for the relief of the local professional people there who found themselves with sick people on their hands and the ship miles over the horizon. It has grown up from that over the years to a complicated system. In recent years medical care plans have developed not just in Canada but largely on an international scale, so the need for taking care of the man who fell off the yard-arm has to a large extent disappeared because of the development of these other schemes in the intervening years.

Dr. Frost: Actually, the agent has had a role here even under the old act, because it was always the agent who got the water taxi to take the man off the ship, if the ship was anchored out in the harbour, and if the ship was at the dock it was always the agent who arranged to move the man to the port doctor's office or to the hospital.

Senator Rattenbury: I am well aware of that. It has happened to me in seven different countries.

Senator Macdonald: In those places where there is a port doctor, would he continue to be designated to act?

Dr. Frost: He would not have any work to do under the new act, except possibly in Quebec and Prince Edward Island where the advent of the new legislation is slightly delayed, but he would still have other functions. If immigrants arrived at the port he would still have medical functions to perform in connection with them, and also under the Quarantine Act he would also have certain functions to perform.

Senator Macdonald: Were there many fishing vessels under the plan?

Dr. Frost: I have not the actual numbers here, but there have been quite large numbers of fishing vessels.

Senator Rattenbury: Did they pay on tonnage as well?

Dr. Frost: Yes.

The Acting Chairman: They paid a minimum fee, if my memory serves me correctly. The fishing vessels were covered under this act, and sometimes there were problems because in certain centres there was only one accredited doctor, and when the doctor was away they could not go to anyone else because they had no right to put their claims through the Department. At the time that I had some connection with it I understood that many doctors did not want to be involved in this plan because there was too much red tape in the matter of accounts to be prepared and details to be submitted, and they were not too pleased with it. I think most of them would welcome this change.

Senator Kinnear: Mr. Chairman, I should like to ask about the inland waters. Many foreign ships are now docking at Toronto, Hamilton, and in the Welland Canal. Are there resident doctors there?

Mr. McCarthy: Those ports were never covered under Part V.

Senator Kinnear: I noticed that you omitted Ontario when you spoke. There are a great many accidents in that particular area, and a great deal of foreign shipping docks there. Are those ships not covered at all?

Mr. McCarthy: No. I am guessing now, but it may be that it never became a matter for serious consideration until the development of the St. Lawrence Seaway, and by that time consideration was being given to the phasing out of this legislation.

Senator Kinnear: Is there medicare coverage in many of the foreign countries?

Mr. McCarthy: I am afraid I do not know the answer to that question.

Senator Kinnear: I thought that there might be reciprocity with those countries with respect to Canadians abroad.

Dr. Frost: The only arrangements that exist are in respect of venereal disease, which is covered by an international convention. We have to live up to our international obligations in terms of treating venereal disease.

The Chairman: Has there been any international discussion or agreement about this, or is this done unilaterally by any country?

Dr. Frost: This is unilateral, sir.

Senator Macdonald: Do I understand correctly that under the new act take-home drugs will no longer be provided to seamen?

Mr. McCarthy: For the remainder of this year and so long as there are members of Canadian fishing crews who do not reside in a participating province, they will get the medical care that is described in the act. It does not mention take-home drugs specifically, but in practice this has been included amongst other medical services.

Senator Macdonald: But that will cease when the new act comes into effect?

Mr. McCarthy: No, it will remain the same, sir, so long as it is governed more by actual practice.

Senator Macdonald: I am thinking of the case of a seaman who was injured some considerable time ago. He still gets treatment from either the department's doctor or some other doctor, and he gets take-home drugs, and he gets medical care under the Medicare program now?

Dr. Frost: The limit under the old act is one year. It provides that there shall be treatment for one year.

Senator Macdonald: I think that that was honoured more in the breach.

Senator Inman: If a seaman were taken ill, or suffered an accident, and he asked for a special doctor other than the port doctor, what would happen then?

Dr. Frost: The act authorizes the master to refer the sick person to the port doctor. This does not mean that the individual has to go to the port doctor if he wishes to go to his own doctor under his own insurance plan or at his own expense. There is no compulsion. On the other hand, if the man requires specialized treatment, the normal procedure is that he goes to the port doctor who will refer him to a specialist. This has been the arrangement. It has not been an all-inclusive hospital insurance scheme. The doctors who were named under the authority of this legislation by the minister sort of act as agents of the department, and they make the arrangements for the individual needs. If it were thrown upon the other doctor there would be all sorts of charges which have not been taken care of under this legislation.

Senator Fournier (Madawaska-Restigouche): Are those doctors on a salary basis, or are they paid for what they do?

Dr. Frost: They used to be on a salary basis, but now the only doctors on salary are the full time doctors in ports like Halifax, Vancouver, etcetera. There are a few on a part-time salary at places such as St. John's, Newfoundland, but most of the others are on a fee basis. In the small places where the majority of individuals who seek treatment are local residents, the tendency in recent years has been to name a number of doctors as port doctors, if they agree to accept the conditions and follow the rules. Occasionally, a doctor will say that he will not accept the conditions or follow the rules, and he is the one who has been left out.

The Acting Chairman: Are there any further questions?

Senator Fournier (Madawaska-Restigouche): I move the adoption of this bill.

Senator Yuzyk: Are we going through the bill clause by clause?

Senator Fournier (De Lanaudière): On page 3 of the bill, the French version of the new section 318(2) reads:

> ... il doit immédiatement adresser cette personne à un médecin désigné.

In my opinion "adresser cette personne" is not correct. One addresses an envelope, but not a person.

The Acting Chairman: You are referring to the French translation of:

> ... he shall forthwith direct that person to a designated medical practitioner.

I think that the translation is acceptable, although it may not be the best.

Senator Fournier (De Lanaudière): Senator Denis suggests that the word should be "diriger", and in my opinion that is the proper word to use.

The Acting Chairman: What is the procedure in this case?

Mr. E. Russel Hopkins, Law Clerk and Parliamentary Counsel: An amendment may be made in either the French or English versions of a bill, if it is the opinion of the committee that such an amendment should be made.

The Acting Chairman: There is no doubt in my mind that the word "diriger" would be a more direct translation.

Senator Fournier (De Lanaudière): In the English version, the word is "direct".

The Acting Chairman: Do you want to make a motion to that effect?

Senator Fournier (De Lanaudière): Yes, because that phrase if not French at all.

The Acting Chairman: It is moved by Senator Fournier (De Lanaudière), that in the French translation of the new section 318(2) on page 3, the word "adresser" be replaced by the word "diriger". Are you in favour of this amendment?

Hon. Senators: Agreed.

The Acting Chairman: Shall clause 1 carry?

Hon. Senators: Carried.

The Acting Chairman: Shall clause 2 carry?

Senator Yuzyk: I have some questions to ask in respect of clause 2, which concerns section 315 of the act. First of all, I would like to find out why these particular provinces are mentioned in section 315(c).

Dr. Frost: This is the area of operation that is mentioned in Part V of the Canada Shipping Act now.

Senator Yuzyk: This is the sea coast, is it?

Dr. Frost: Yes, that is right, and since the intent is to phase out this legislation as Medicare and hospital insurance become operative, there was no attempt made to expand the area of operations of the act in the last weeks of its existence.

Senator Yuzyk: Why not just mention any Canadian seaport?

Dr. Frost: It has always operated up the St. Lawrence as far as Montreal, and this seemed to be the easiest way of describing the area in which it operates. There are one or two international rivers in British Columbia where it has operated in so far as the odd sick mariner is concerned, but this does not change anything so far as the area of operation is concerned.

Senator Yuzyk: How many ports have we that come under this law?

Dr. Frost: It think there must be about 400, that if you count all the small hamlets. You see, each collector of customs has jurisdiction for an area and not just the hamlet in which he may be located. He may have an area of coast, and what happens is that if there is no collector resident in a small coastal village then the fisherman mails his application and his dues to the collector at the nearest port. We have always had an arrangement whereby a person who arrives at a port where there is no collector of customs would seek treatment at the place at which he lives, and mail the application to the collector who would send it back if he approved it. If the application came back approved, then the doctor billed the plan. If the application was turned down for any reason then the doctor billed the patient. It worked out very well.

Senator Yuzyk: We find our customs officers only in the larger ports, and those ports would also have designated medical practitioners.

Dr. Frost: That is true.

Senator Yuzyk: That is where the customs officers ire located.

Dr. Frost: Yes.

Senator Yuzyk: How many ports have we of that ype?

Dr. Frost: In the very large ports like Halifax, Saint ohn, Quebec, Montreal, Vancouver, and Victoria we perate clinics, and we had one in Sydney up until airly recently. But, there are a great many other collectors of customs, and each area of coast is under the jurisdiction of some collector of customs.

The Acting Chairman: In fact, I might add that the doctor or practitioner may not be at the same location as the customs officer. He may be 25 or 50 miles away, and that was causing problems too.

Senator Yuzyk: That is why I am asking these questions on this particular section. In other words, you are satisfied that this covers every possible situation regarding sick seamen?

Dr. Frost: We assume that this will work as it has worked under the old act for the remaining months of this year, because as soon as each province has a medical care insurance scheme then treatment will be provided under that medical care insurance scheme rather than under this act.

Senator Yuzyk: Thank you.

The Acting Chairman: Shall clause 2 carry?

Hon. Senators: Carried.

The Acting Chairman: Shall clause 3 carry?

Hon. Senators: Carried.

The Acting Chairman: Shall clause 4 carry?

Hon. Senators: Carried.

The Acting Chairman: Shall clause 5 carry?

Hon. Senators: Carried.

The Acting Chairman: Shall the title carry?

Hon Senators: Carried.

The Acting Chairman: Shall I report the bill as amended?

Hon. Senators: Agreed.

The Acting Chairman: The meeting is adjourned.

Whereupon the committee adjourned.

Thursday, May 7, 1970

Upon resuming at 1.45 p.m.

The Acting Chairman: Honourable senators, I see a quorom. I apologize for calling this meeting at this time, but it will be recalled that yesterday this committee accepted an amendment to the French version of the proposed Section 318(2) of the Canada Shipping Act as contained in clause 3 of Bill C-10. Senator Fournier (De Lanaudière) moved that the word "adresser" in the French version be replaced by the word "diriger". After consultation with the Translations Bureau it was discovered that the amendment may not be an appropriate one to translate the meaning of ". . . he shall forthwith direct that person to a designated medical practitioner."

Senator Fournier (De Lanaudière): If you will permit me, Mr. Chairman, I should like to apologize for the disturbance I have caused the members of this committee. After deep study of the wording of the amendment in company with my learned friend, Mr. Godbout, I have come to the conclusion that the word "adresser" is the classic word to use in this context. It was used by Molière in the same sense as here, and Molière is the Shakespeare of the French language. The word "adresser" with the same meaning is used by the great French fablist, LaFontaine.

Molière said: "On nous a adressés à vous . . . , et nous venons implorer votre aide", which means: "We were sent to you . . . and we come to implore your help."

LaFontaine said: "Adressez-vous, je vous en prie, à quelqu'un d'autre", which means: "Please address yourself to somebody else".

I must pay a tribute to the translators who, of course, use very classic language. When I was hoping to give them a lesson I find myself to-day receiving one from them, which I accept.

Mr. Chairman, I do apologize, and I move that my motion of yesterday be rescinded.

The Chairman: Before I put the motion, I might say that we have appearing as a witness before us this afternoon Mr. R. J. LePocher, the Chief of the Law Translations Division. I will ask Mr. LePocher if he has anything to add to what Senator Fournier (De Lanaudière) has said.

Mr. R. J. LePocher, Chief, Law Translations Division (Justice), Department of the Secretary of State: I might mention, Mr. Chairman, that not only is that word used by Molière and other good authors, but it is in common use in France right now, and I say that because we do not translate in accordance with the usage of three centuries ago. We translate in accordance with the present French language, and I can say that this is the only term that is acceptable in this context. You cannot in good French use any other term than this. The word "diriger", of course, may be used in expressions such as: "I direct this patient to the hospital" or, in other words, "Je vais diriger le malade sur l'hôpital", or "Je vais diriger un soldat sur son unité". But, you cannot use the word "diriger" from a person to a person. You must say "adresser cette personne à un médecin désigné."

That is all I have to say.

Senator Fournier (De Lanaudière): I do not like it, but I accept it.

The Acting Chairman: Honourable senators, are you in favour of Senator Fournier's motion?

Hon. Senators: Agreed.

The Acting Chairman: Shall I report the bill without amendment?

Hon. Senators: Agreed.

The committee adjourned.

Queen's Printer for Canada, Ottawa, 1970

Second Session—Twenty-eighth Parliament
1969-70

THE SENATE OF CANADA

PROCEEDINGS

OF THE

STANDING SENATE COMMITTEE

ON

HEALTH, WELFARE AND SCIENCE

The Honourable H. J. ROBICHAUD, P.C., *Acting Chairman*

No. 8

WEDNESDAY, JUNE 3, 1970

Complete Proceedings on Bill C-187,
"An Act respecting inland water resources in the Yukon Territory and Northwest Territories"

WITNESSES:

Department of Indian Affairs and Northern Development: G. Bill Armstrong, Head, Water Resources Section; J. Naysmith, Chief, Water, Forest and Land Division.

REPORT OF THE COMMITTEE

21652—1

THE SENATE COMMITTEE ON HEALTH, WELFARE AND SCIENCE

The Honourable Maurice Lamontagne, *Chairman*

The Honourable Senators:

Bélisle	Fournier (*Madawaska-*	Michaud
Blois	*Restigouche*)	Phillips (*Prince*)
Bourget	Gladstone	Quart
Cameron	Hastings	Robichaud
Carter	Hays	Roebuck
Connolly (*Halifax North*)	Inman	Smith
Croll	Kinnear	Sullivan
Denis	Lamontagne	Thompson
Fergusson	Macdonald (*Cape Breton*)	Yuzyk—(28)
Fournier (*de Lanaudière*)	McGrand	

Ex officio Members: Flynn and Martin

(Quorum 7)

Patrick J. Savoie,
Clerk of the Committee.

ORDER OF REFERENCE

Extract from the Minutes of the Proceedings of the Senate, Tuesday, May 26, 1970:

"Pursuant to the Order of the Day, the Senate resumed the debate on the motion of the Honourable Senator Hays, P.C., seconded by the Honourable Senator Robichaud, P.C., for the second reading of the Bill C-187, intituled: "An Act respecting inland water resources in the Yukon Territory and Northwest Territories".

After debate, and—
The question being put on the motion, it was—
Resolved in the affirmative.

The Bill was then read the second time.
With leave of the Senate,

The Honourable Senator Hays, P.C., moved, seconded by the Honourable Senator Robichaud, P.C., that the Bill be referred to the Standing Senate Committee on Health, Welfare and Science.

The question being put on the motion, it was—
Resolved in the affirmative."

ROBERT FORTIER,
Clerk of the Senate.

21652—1½

MINUTES OF PROCEEDINGS

WEDNESDAY, June 3, 1970.
(9)

Pursuant to adjournment and notice the Standing Senate Committee on Health, Welfare and Science met this day at 10.30 a.m.

Present: The Honourable Senators Belisle, Fergusson, Fournier (*De Lanaudière*), Fournier (*Madawaska-Restigouche*), Gladstone, Kinnear, Robichaud, Smith and Yuzyk. (9)

In attendance: Pierre Godbout, Assistant Law Clerk and Parliamentary Counsel, and Director of Committees.

On Motion of the Honourable Senator Fergusson, it was *Resolved* that the Honourable Senator Robichaud be elected Acting Chairman.

On Motion duly put, it was Resolved to print 800 copies in English and 300 copies in French of the proceedings of the Committee on Bill C-187.

Bill C-187, "An Act respecting inland water resources in the Yukon Territory and Northwest Territories", was considered.

The following witnesses were heard:

Department of Indian Affairs and Northern Development:

G. Bill Armstrong,
Head, Water Resources Section.
J. Naysmith,
Chief, Water, Forest and Land Division.

On Motion of the Honourable Senator Belisle, it was *Resolved* to report the Bill with the following amendment:

Page 8, line 11: Strike out the word "waste" and substitute therefor the words "deleterious substances".

At 11.05 a.m. the Committee adjourned to the call of the Chairman.

ATTEST:

Patrick J. Savoie,
Clerk of the Committee.

REPORT OF THE COMMITTEE

WEDNESDAY, June 3, 1970.

The Standing Senate Committee on Health, Welfare and Science, to which was referred the Bill C-187, intituled: "An Act respecting inland water resources in the Yukon Territory and Northwest Territories", has in obedience to the order of reference of Tuesday, May 26, 1970, examined the said Bill and now reports the same with the following amendment:

Page 8, line 11: Strike out the word "waste" and substitute therefor the words "deleterious substances".

Respectfully submitted.

H. J. Robichaud,
Acting Chairman.

STANDING SENATE COMMITTEE ON HEALTH, WELFARE AND SCIENCE

EVIDENCE

Ottawa, Wednesday, June 3, 1970.

The Standing Senate Committee on Health, Welfare and Science, to which was referred Bill C-187, respecting inland water resources in the Yukon Territory and Northwest Territories, met this day at 10 a.m. to give consideration to the bill.

Upon motion, it was *resolved* that Senator Hédard Robichaud be Acting Chairman.

Upon motion, it was *resolved* that a verbatim report be made of the proceedings and to recommend that 800 copies in English and 300 copies in French be printed.

The Acting Chairman: Honourable senators, we have before us this morning Bill C-187, an Act respecting inland water resources in the Yukon Territory and Northwest Territories.

We have as witnesses Mr. J. Naysmith, Chief, Water, Forest and Land Division, the Department of Indian Affairs and Northern Development; and Mr. G. Bill Armstrong, Head, Water Resources Section of that Department.

Probably, honourable senators, you would want to have an explanation from Mr. Naysmith of the bill and the reasons for the amendments.

Senator Yuzyk: I think we would appreciate a general statement very much, Mr. Chairman. You are quite well aware of the questions which were posed in both Houses, so you might give us a general account as to what is really behind the bill and what we can expect in the future.

Mr. J. Naysmith, Chief, Water, Forest and Land Division, Department of Indian Affairs and Northern Development: Thank you, Mr. Chairman. The basic reasoning behind Bill C-187 is for the distribution of water in the two Territories, but tied to the question of distribution and proper allocation of water rights is the question of pollution abatement, which makes this bill somewhat unique in terms of Canadian legislation.

It is important to realize that Bill C-187 is a bill of regional nature; it is not a typical federal Government water bill. For example, it is the kind of legislation that is required in order to make the Canada Water Act operable. It is a management-type piece of legislation, the purpose being that areas, regions, watersheds that are of particular importance in terms of industrial development or municipal development will be managed in the total concept. The integrated management of the resources is the important thing here. It is not the single-sector approach which is taken with much of the legislation that we have, but consideration will be given in terms of allocating water rights to other users of the resource base, so that in some instances it will not be the industrial user who will receive the preferred treatment, if you like, but it may be the user in terms of recreational requirements or it may be on the basis of the importance of the watershed in terms of wildlife habitat. So it is an integrated management, total resource concept we have developed in this bill, and we think we have accomplished this by tying directly to the question of allocation of water rights the question of pollution abatement.

In terms of general comment, that is all I have to say.

Senator Yuzyk: If I may ask a few questions, I gathered from your statement that it was the intention of the Government to pass Bill C-144, according to the numbering here, before Bill C-187, would be discussed in the House of Commons or, in fact, in either chamber. Is that right?

Mr. Naysmith: Yes, I think that is correct.

Senator Yuzyk: Then the idea behind this bill would be to establish in the Yukon and the Northwest Territories something comparable to the administration in the rest of the provinces of Canada?

Mr. Naysmith: Yes, that is correct.

Senator Yuzyk: Therefore, this is absolutely necessary in order to carry out the provisions of the Canada Water Act?

Mr. Naysmith: No, it is not absolutely necessary, but it is in the sense that the Canada Water Act will be able to function more efficiently if there is a regional-type legislation.

The basic concept behind Bill C-144 is purely one of management, and long-range management looking at the total picture. It will be able to operate more efficiently if there is regional-type legislation.

Senator Yuzyk: I would like to inquire about the relations that your department has had with the administrations of, say, the Yukon and the Northwest Territories before bringing in this bill.

Mr. Naysmith: When the question of this bill came up first it was presented to the ICW. The ICW formed an *ad hoc* subcommittee at that time simply to deal with drafting this bill. It was called the Subcommittee on Northern Waters and included all of the interested federal departments, plus representatives of the two Territories in the office of the Assistant Commissioner in the Yukon, Hodgkinson by name, and the Deputy Commissioner in NWT, John Parker by name. So these people had direct input in the drafting of the legislation, and through them the two Commissioners, were kept informed of the progress of the legislation and the bill they ultimately received through these two men.

Senator Yuzyk: Every aspect of the legislation has been discussed with, shall we say, officials is it, responsible for carrying out the provisions of this act?

Mr. Naysmith: Yes, the officials responsible for carrying out the provisions of this act will be the two Regional Directors, one in Whitehorse and one in Yellowknife, and they are quite familiar with all the ramifications of the bill.

Senator Yuzyk: One thing that appeals to me about this bill is that it deals with all the problems of environment. Of course, water pollution or water conservation is basic here. If I understand correctly, in the end the priorities will be decided upon by the boards, with the approval of the minister, is that right?

Mr. Naysmith: That is correct.

Senator Yuzyk: I think this is a good system and, in my opinion, it would be the most efficient system because I think we will have to get down to work very soon in order to prevent pollution, and many of these clauses in the bill, as I have studied the bill, appear to me to be able to cope with the situation before it gets completely out of hand.

How are you planning to get the co-operation of other agencies, say, some that deal with parks? They may deal with industrial matters; they may even deal with water diversion, if such a plan is ever conceived in the future.

Mr. Naysmith: We feel that the Water Board will accomplish this for the most part in that the Board will consist, first of all, of representatives of federal departments which have an interest in the north, and various sectors, such as you have indicated here, but in addition there will be the three members who will be named by the Commissioner in Council. Presumably these people will represent associations such as the Conservation Association in the Yukon, or some particular sector of industry. I think that the Board will accomplish this point of concern you have through its formation and through the kinds of people on it.

Senator Yuzyk: Such a board, then, would be responsible for the overall development shall we say, of certain basins and the management of such policies; is that correct?

Mr. Naysmith: That is correct, yes.

Senator Yuzyk: I think those are all the questions I have to ask at this time.

The Acting Chairman: Are there any further questions?

Senator Belisle: May I ask a question? Am I right in understanding that the purpose of this bill is the prevention of pollution, and that its provisions apply basically to commercial users of water?

Mr. Naysmith: Yes, for the most part, but it does apply to the municipalities.

Senator Belisle: But it will not apply to private users? It will not control pollution from private use?

Mr. Naysmith: Yes, it will.

Senator Belisle: It will do that also?

Mr. Naysmith: Yes.

Senator Belisle: Section 30 reads:

(1) An inspector may at any reasonable time

(a) enter any area, place or premises within a water management area, other

> than a private dwelling place or any part of any such area, place or premises that is designed to be used and is being used as a permanent or temporary private dwelling place, in which he reasonably believes . . .

and you go on and on. In other words, the inspector will have the authority to enter any private dwelling home without a warrant and make an inspection.

Mr. Naysmith: Mr. Chairman, I should like Mr. Armstrong to deal with this particular point.

The Acting Chairman: Very well.

Mr. G. Bill Armstrong, Head, Water Resources section, Department of Indian Affairs and Northern Development: The bill as it is drafted requires that any user or any potential user of a water resource within a water management area is required to take out a water rights licence which then licenses him to use water in the quantity and at the rate authorized by the Board. It also imposes conditions of pollution control or abatement that he must meet. The point that you have brought up is that there is not a clause in the bill that excepts a domestic user from complying with this requirement of taking out a licence. If there is a cabin alongside a stream in which a native family is living, and if they were taking water within the meaning of using water in this bill out of the river, then they would not be required to take out a water licence. Domestic use is exempted.

Senator Belisle: But it does not say it is.

Mr. Armstrong: Yes, there is a clause that says that domestic users do not have to comply with the licensing requirements.

Senator Belisle: My next question is: If you are indirectly requiring the private user to request a permit, then why are you not doing that across Canada? To my knowledge there is no legislation that compels Joe Blow to obtain a licence to use water. He can use water from a river, and he is under no compulsion, to my knowledge of the law, to obtain a licence.

Mr. Armstrong: This varies, of course, across Canada, but it is generally accepted, particularly in the western provinces, and it is what is known as a water rights type of legislation. In the Prairie provinces and British Columbia this concept of water rights dates back to the last century. I believe it was in the 1880's that an act was passed by the Parliament of Canada called the Northwest Irrigation Act, which applied to the Northwest Territories as they then were, and which took in Manitoba, Saskatchewan, Alberta, and the Northwest Territories. This act sets out water rights which were probably the most advanced in North America. In all the Prairie provinces at this time they have water rights acts, which have resulted from that particular federal act, the Northwest Irrigation Act. When resource responsibilities were transferred to those provinces in 1930, I think, the provinces adopted that act almost intact, and we now find it in the Saskatchewan Water Rights Act and the Alberta Water Rights Act. It is still in force in the way it was written in 1880. This is not the case in British Columbia, but the water rights legislation of that province dates back to the Barkerville and Cariboo gold rush, and they have in British Columbia stronger and more arbitrary measures for the allocation of water rights than are contained in this bill.

Senator Belisle: Is it designed especially for irrigation purposes, or is it for all uses?

Mr. Armstrong: They cover any use whatsoever except domestic use. In the Prairies it is particularly important for a farmer who is not hooked onto a sewer system or a water distribution system. He has certain basic rights to use water out of a stream, lake or well for domestic use only. But, if he wants to build a dam or a small coulee for stock watering purposes then he is required to obtain a water rights licence before he can turn a stone in the construction.

Senator Belisle: I am almost positive that such legislation does not exist in Ontario or Quebec.

Mr. Armstrong: I believe that is correct.

Senator Belisle: I could be mistaken about Quebec.

Mr. Armstrong: Yes, there is a distinction here.

Senator Belisle: Two years ago there was an argument regarding the Ontario Water Resources Commission Act, and the day the legislation was presented it was withdrawn because it would compel every human being in Ontario to have a permit. In other words, it would have required every person who wanted to go fishing in the north to have not only a fishing licence but a licence to drink the water.

Mr. Armstrong: Of course, this is an extreme case, but in Ontario the law has developed from the old English common law which contains a feature known as riparian rights, which are certain property rights in the water on or adjacent to private property. This has real problems involved in it. It is an old concept that has come to us through the common law, and I am sure that Ontario would like to have the type of legislation that they have out west because water is so basic to just about any social or economic activity. Anything you do involves water these days, and you have to have some means of fairly allocating the water.

Senator Belisle: Do not misunderstand me, Mr. Chairman. I am not arguing against the right to control pollution. I am arguing against the necessity of compelling a domestic user of water to get a licence.

Mr. Armstrong: This does work two ways.

Senator Belisle: The phraseology here is to the effect that the inspector will have the right to enter any human habitation, either permanent or temporary, and ask: "Are you getting the water from the ground or from the river?"

Mr. Armstrong: No, the inspector has not that right. He cannot go into any dwelling place. He can go anywhere but a dwelling place.

Senator Belisle: Let me read this section again.

Mr. Armstrong: It reads:

> An inspector may at any reasonble time
>
> (a) enter any area, place or premises within a water management area, other than a private dwelling place..

Senator Belisle: Yes, and:

> ...or any part of any such area, place or premises that is designed to be used or is being used as a permanent or temporary private dwelling place...

Mr. Armstrong: Yes, he cannot go into such a place. He can go into any place except a private dwelling place.

Mr. Naysmith: It is a very interesting point you bring out, and it does have this historical significance. It dates back to the riparian concept that came over from northern and western Europe. It is the same problem that they brought to New England and that New England has today, in contrast to the situation in the mid-West, where water was of such importance that they could not use that riparian system, and they came up with the Taylor Grazing Act to overcome the question of allocating water through various ranges. That is a very interesting point and that is why Ontario and Quebec have the same problem.

Senator Yuzyk: These riparian rights only apply in these two provinces—that is, Ontario and Quebec?

Mr. Naysmith: They do apply here; I think in the Maritimes too.

Mr. Armstrong: Yes, they also apply in the west, and in this act they will apply for domestic use. When you are living beside a stream you can use, without any question. Your riparian right is intact for such water as you need for domestic purposes.

Senator Fournier (De Lanaudière): Can you sell part of that water to your neighbour?

Mr. Armstrong: No, this is to avoid speculation in the water.

Senator Fournier (De Lanaudière): If you have a stream on your land, you are the owner of the stream.

Mr. Armstrong: You are the owner of the land, but you do not own the stream and you do not own the water.

Senator Belisle: If the source is on your property, if it is a spring, you have that right. I was an NCC camp owner, and because the water I was using was the neighbour's, the NCC could not do anything about it, and I think they are familiar with the law.

Mr. Armstrong: Of course, this varies from jurisdiction to jurisdiction. In Ontario they have a different system, there is no question about that. In Ontario, for instance, you can own a lake and the water in the lake. You can have a private lake or you can own a section of a stream, as in the case of these fishing clubs. As Mr. Naysmith pointed out, in the New England states they have this common law set-up much the same as in Quebec and Ontario, but west of the Lakehead—and that goes in a line practically right through North America—it changes.

There is another point that might be of interest too, from the point of view of a water rights licence and why a user of water has to

get a licence. This works two ways. It works in that water can then be allocated by the agency in a fair manner, but it also affords great protection to the licensee. He states his needs, both present and maybe future, for water, and if this is accepted this is stated in his licence and he is protected for a period of years. For instance, in the Yukon at the present time the only water rights of any kind are under the Placer Mining Act, and it works this way, that every miner, regardless of the stream or the source of supply, has the right to a certain amount of water; it comes with his claim. If you take a big mining operation with a number of claims and they want to develop it and build mills and so on, they need a certain amount of water to make the operation work. They can get a right, because they own the claims, under the present law, to a certain amount of water, and they go ahead and build a mill and commence operations. Then, if someone comes along and stakes claims above them, and it might be a very small stream with a limited amount of water, the new claimholder also has the right to water at that stream which may compromise the original operation, and you may end up with two people, both with rights on the stream, neither of them having enough water for their purposes.

So, under the provisions of the bill the original applicant and licensee is allocated enough water to make his operation work, and that is then his right for a period of 25 years, with the provision for renewal. If anyone else comes along, they have to look elsewhere and make different arrangements. So it does provide very important protection to the licensee, which he does not have at the present time.

Senator Kinnear: You have raised so many questions here I wanted to ask how you are going to develop the North and find streams for all these industries. But, seriously, I want to talk a little about pollution. With regard to the domestic service, are you depending on the officials of the North to look after the domestic service, with the federal Government doing nothing about it? I ask that because, as you know, there is a great deal of pollution from domestic service.

Mr. Armstrong: By definition "domestic service" or "domestic use" involves one family and their particular holding. It is the domestic water requirement to serve that one family with a small garden plot or something like this. "Domestic use" does not apply to a household, for example, connected to the Whitehorse water system.

Senator Kinnear: If a municipality is there, does it affect it?

Mr. Armstrong: Yes, they will have to get a water right because they are selling water. In other words, the public works department of the City of Whitehorse would be required to take the water right licence, and then all the facilities of pollution abatement, and so on, would apply.

Senator Kinnear: That is what I want to get into, the pollution abatement, what you are trying to do with pollution abatement when you are dealing with the municipality. Are you seeing to it that they look after their pollution correctly and the disposal of it?

Mr. Armstrong: Yes.

Senator Kinnear: Are you doing more than we are doing in the southern part of the country?

Mr. Armstrong: We will be able to, with the passage of this act, because written right into their licence enabling them to use the water, say, out of the Yukon River in the case of Whitehorse, there will be conditions laid down as to how they treat that water and as to how they restore it to acceptable standards before it is discharged out of the sewage system.

Senator Kinnear: That sounds like a very fine thing to do, and I hope we can do it throughout the country.

Mr. Naysmith, when you were speaking about users you said "not necessarily industrial." It sounded as if you were trying to make a great parkland in the North.

Mr. Naysmith: When I said "not necessarily industrial use" I was referring to the point you have since raised about the municipality. On the question of making a great parkland, the approach we are taking in the department is that there is a way of striking a balance between the industrial utilization of the resource base and the preservation or conservation, if you like, of the resource base. We have an opportunity in the North to do this. The situation is much more difficult in the provinces; but we can, because industrial development is simply just under way now.

Going back to your other point about the prevention of pollution rather than doing something after the fact, the standards which we will be setting for pollution abatement in

the North, I am sure, will be higher than they are in the provinces, because we can impose upon the industrial sector now certain stipulations which will not be so difficult for them to meet because it is less expensive to do this in the development stage than after.

Senator Kinnear: Yes, there is a built-in factor.

Mr. Naysmith: That is correct. So we hope to maintain the very high quality of our northern waters, whereas in the provinces it is not so easily done.

Senator Fournier (De Lanaudiere): Does the price of a licence vary with the quantity of water used?

Mr. Armstrong: There is provision in the bill for water use fees, and the fee will vary with the particular use that is being made of the water. For instance, certain industrial undertakings that can cause pollution, or a deterioration in the quality of water, which are particularly difficult to deal with or to control, may have to pay a higher fee than a recreational use that really preserves the water in the state in which it exists. The fee will be based on the number of cubic feet or the number of gallons used, or something like that, so that it is based on use and quantity. This is a technique that takes into account some of the problems of maintaining the water. It is important to understand that the control of pollution does not necessarily mean the preservation of the waters in their pristine state, because that is impossible. Any time man uses anything, whether it be land or anything else, he modifies its natural condition, and some uses modify it more than others. The fee structure recognizes this.

Senator Yuzyk: Who has control over marinas and lodges which are in a position to pollute waters, and even destroy them for domestic use. Would it be the municipality or these water boards that would have the right to clamp down with certain regulations?

Mr. Armstrong: It would be the water boards.

Senator Yuzyk: For example, there might be a lodge built on a lake where there has been nothing there before. That lodge will have a water system and it would also probably have boats. The boats could pollute the water. Would these water boards have control over that?

Mr. Armstrong: Absolutely.

Senator Yuzyk: And it would not be the municipality?

Mr. Armstrong: No.

Senator Fournier (De Lanaudiere): My personal experience on Lake Champlain is that the municipality of Venise-En-Québec has by-laws regulating the drilling of a well and the installation of a sewer. The sewer has to be so many feet back from the lake, and there has to be so many feet between the sewer and the well, and nobody can send his used water into the lake.

Mr. Armstrong: Yes, and that is very important in an area such as that around Lake Champlain where there are so many cottages.

The Acting Chairman: Honourable senators, you will notice that the committee clerk has placed before you a copy of a proposed amendment to line 11 on page 8 of this bill. Lines 10 and 11 read:

> ... that vary from any restrictions relating to the deposit of waste...

I understand that this clause relates to section 33 of the bill that is presently before the other place. I will ask Mr. Naysmith to explain this amendment, but I understand that in the other bill the word "waste" has been replaced by the phrase "deleterious substances", and that this is the reason why this amendment is suggested.

Mr. Naysmith: That is correct, Mr. Chairman. For this bill to be compatible with the other then this term "waste" will have to be changed to "deleterious substances".

Senator Belisle: I move that this bill be amended as suggested.

Senator Fournier (De Lanaudiere): I will second that motion.

The Acting Chairman: It is moved by Senator Belisle, seconded by Senator Fournier (De Lanaudiere) that Bill C-187 be amended as follows:

> *Page 8, line 11:* Strike out the word "waste" and substitute therefor the words "deleterious substances".

Senator Yuzyk: Is the word "*nocives*" the correct word to use in the French translation?

Senator Fournier (De Lanaudière): Yes.

Senator Yuzyk: Is this word a good translation of "deleterious"?

Senator Fournier (De Lanaudière): I think it is an improvement on the English text.

The Acting Chairman: My understanding is that this word has been thoroughly discussed by the committee of the other place on Forests and Fisheries when they were discussing Bill C-204. I am convinced that the translation in this case has been well looked into before being presented to us.

Does the motion carry?

Hon. Senators: Carried.

The Acting Chairman: Are there any further questions?

Senator Yuzyk: The only other question I have to ask is about Bill C-144. We can pass this particular bill on third reading, but it would not be advisable for us to have royal assent before the passage of Bill C-144.

Mr. Naysmith: Yes, I think that is correct.

Senator Yuzyk: I think our chairman should keep that in mind.

Mr. Armstrong: There is a point here. The last clause in this bill is:

> This act shall come into force on a date to be fixed by proclamation.

Even if the bill receives royal assent it does not mean it is in effect. It would be well not to proclaim this bill until such time as Bill C-144 is passed.

The Acting Chairman: I believe the point raised by Senator Yuzyk is worth while taking into consideration.

Senator Yuzyk: Yes, because Bill C-144 is in its final stages in the other place, and we may well be discussing it in this committee next week.

The Acting Chairman: The matter raised by Senator Yuzyk will certainly be taken into consideration, notwithstanding clause 40, because that is the clause that appears in almost every bill.

Senator Belisle: I move that the bill be reported as amended.

Senator Yuzyk: I do not think we need go through it clause by clause.

The Acting Chairman: Shall the bill as amended carry?

Hon. Senators: Carried.

The committee adjourned.

Queen's Printer for Canada, Ottawa, 1970

Second Session—Twenty-eighth Parliament
1969-70

THE SENATE OF CANADA

PROCEEDINGS
OF THE
STANDING SENATE COMMITTEE
ON

HEALTH, WELFARE AND SCIENCE

The Honourable H. J. ROBICHAUD, P.C., *Acting Chairman*

No. 9

WEDNESDAY, JUNE 10, 1970

Complete Proceedings on Bill C-193,

"An Act to amend the Industrial Research and Development Incentives Act"

WITNESS:

Department of Industry, Trade and Commerce: Mr. H. C. Douglas, Director, Office of Science-Technology.

REPORT OF THE COMMITTEE

21835—1

MEMBERS OF
THE STANDING SENATE COMMITTEE ON HEALTH, WELFARE AND SCIENCE

The Honourable Maurice Lamontagne, *Chairman*

The Honourable Senators:

Bélisle
Blois
Bourget
Cameron
Carter
Connolly (*Halifax North*)
Croll
Denis
Fergusson
Fournier (*de Lanaudière*)
Fournier (*Madawaska-Restigouche*)
Gladstone
Hastings
Hays
Inman
Kinnear
Lamontagne
Macdonald (*Cape Breton*)
McGrand
Michaud
Phillips (*Prince*)
Quart
Robichaud
Roebuck
Smith
Sullivan
Thompson
Yuzyk—(28)

Ex officio Members: Flynn and Martin

(Quorum 7)

ORDER OF REFERENCE

Extract from the Minutes of Proceedings of the Senate, Wednesday, June 3, 1970:

"The Order of the Day being read,

With leave of the Senate,

The Honourable Senator Robichaud, P.C., resumed the debate on the motion of the Honourable Senator Robichaud, P.C., seconded by the Honourable Senator Kinnear, for the second reading of the Bill C-193, intituled: "An Act to amend the Industrial Research and Development Incentives Act".

After debate, and–

The question being put on the motion, it was–

Resolved in the affirmative.

The Bill was then read the second time.

The Honourable Senator Robichaud, P.C., moved, seconded by the Honourable Senator Kinnear, that the Bill be referred to the Standing Senate Committee on Health, Welfare and Science.

The question being put on the motion, it was–

Resolved in the affirmative."

Robert Fortier,
Clerk of the Senate.

MINUTES OF PROCEEDINGS

Wednesday, June 10, 1970.
(10)

Pursuant to adjournment and notice the Standing Senate Committee on Health, Welfare and Science met this day at 10.00 a.m.

Present: The Honourable Senators Cameron, Carter, Croll, Fergusson, Fournier (*de Lanaudière*), Kinnear, Macdonald (*Cape Breton*), McGrand, Quart, Robichaud, Smith, Sullivan and Yuzyk. (13)

In attendance: Mr. E. Russell Hopkins, Law Clerk and Parliamentary Counsel, and Mr. Pierre Godbout, Assistant Law Clerk and Parliamentary Counsel and Director of Committees.

On Motion of the Honourable Senator Kinnear, it was *Resolved* that the Honourable Senator Robichaud be elected Acting Chairman.

Upon Motion duly put, it was *Resolved* to print 800 copies in English and 300 copies in French of the proceedings of the Committee on Bill C-193.

Bill C-193, "An Act to amend the Industrial Research and Development Incentives Act", was considered.

The following witness was heard:

DEPARTMENT OF INDUSTRY, TRADE AND COMMERCE:

Mr. H. C. Douglas, Director, Office of Science-Technology.

Upon Motion it was *Resolved* to report the Bill without amendment.

At 10.20 a.m. the Committee adjourned to the call of the Chairman.

ATTEST:

Denis Bouffard,
Clerk of the Committee.

21835—2

REPORT OF THE COMMITTEE

Wednesday, June 10th, 1970.

The Standing Senate Committee on Health, Welfare and Science to which was referred the Bill C-193, intituled: "An Act to amend the Industrial Research and Development Incentives Act", has in obedience to the order of reference of June 3rd, 1970, examined the said Bill and now reports the same without amendment.

Respectfully submitted.

H. J. Robichaud,
Acting Chairman.

THE STANDING SENATE COMMITTEE ON HEALTH, WELFARE AND SCIENCE

EVIDENCE

Ottawa, Wednesday, June 10, 1970

The Standing Senate Committee on Health, Welfare and Science, to which was referred Bill C-193, to amend the Industrial Research and Development Incentives Act, met this day at 10 a.m. to give consideration to the bill.

Senator Hedard Robichaud (*Acting Chairman*) in the Chair.

The Acting Chairman: Honourable senators, I shall entertain a motion for the printing of our proceedings.

Upon motion, it was *resolved* that a verbatim report be made of the proceedings and to recommend that 800 copies in English and 300 copies in French be printed.

The Acting Chairman: Honourable senators, we have before us this morning for consideration Bill C-193, to amend the Industrial Research and Development Incentives Act. As witnesses from the Department of Industry, Trade and Commerce we have Mr. H. C. Douglas, Director of the Office of Science-Technology, and Mr. E. F. Johnson from the same office.

Mr. Douglas, perhaps you would give us a brief explanation of the purpose of the amendments included in this bill.

Mr. H. C. Douglas, Director, Office of Science-Technology, Department of Industry, Trade and Commerce: Thank you, Mr. Chairman. At the outset, perhaps, I should briefly read you the purposes of the Industrial Research and Development Incentives Act. It came into force on March 10, 1967, and essentially it provides for general incentives to industry for the expansion of scientific research and development in Canada by providing for Canadian corporations to receive cash grants or credits against federal income tax liabilities equal to 25 per cent of all capital expenditures for acquiring new property other than land for scientific research and development in Canada, and 25 per cent of the increase in current expenditures in Canada for scientific research and development over the average of such expenditures in the preceding five years.

Experience in the administration of the act since it came into force has revealed the need for several technical amendments to remove anomalies and unintended hardships in certain circumstances, to clarify certain provisions of the act, and to deal with situations that have arisen as a result of changes in other Government programs.

That, Mr. Chairman, I think, summarizes the basic purpose of the amendments that are set out in Bill C-193.

The Acting Chairman: Thank you, Mr. Douglas.

It has been suggested by our legal adviser that we should go through the bill clause by clause. If it is agreeable to the committee I will ask if there are questions on clause 1. If not, shall clause 1 carry?

Hon. Senators: Carried.

The Acting Chairman: Clause 2?

Senator Smith: Mr. Chairman, I am not sure in my own mind just what the effect is of these words that are underlined in the amended section 5(1) (a) (iii). I am referring to the word "as were, in the opinion of the Minister, paid for scientific research and development." How does that phrase change what is in the act? I have read the explanatory note, but this is something with which I am not too familiar. Is there something you can say, Mr. Douglas, that will make it easier for me to understand.

Mr. Douglas: Mr. Chairman, the present provisions of the bill provide for companies to include in their current expenditures repayments to the Crown of amounts which have been advanced to them under other Government programs to assist industrial research and development. Basically, there are two

programs with which we are concerned here. There is the Program for the Advancement of Industrial Technology, and the Defence Industry Productivity Program. Under both of those programs the Government provides financial assistance to industry for specific research and development projects, and under certain circumstances companies are required to repay the amount advanced to them under those programs. When the Industrial Research and Development Incentives Act was enacted, these two programs provided for moneys to be provided to industry solely for the purpose of research and development. Since then these programs have been modified to include pre-production expenses following on research and development activities. The purpose of this amendment is to ensure that any repayments that are made in respect of those pre-production expenses will not qualify for a grant under the act.

Senator Cameron: Can you give us any indication of the percentage of the expenditures that might be earmarked as pre-production expenditures?

Mr. Douglas: I cannot give you any percentages based on any experience we have had. One of the programs I mentioned was only amended in January of this year, and we have not at this point made any grants to industry for pre-production expenses. I would expect, however, that it might run to something of the order of 15 to 20 per cent of the total amount that might be advanced to industry under these programs.

Senator Cameron: Is it your feeling that with the amendments proposed in this bill that greater use will be made of this legislation with a view to having industry devote more time, attention, and money to research and development in Canada?

Mr. Douglas: I think, Mr. Chairman, I should just reiterate the point I made earlier, that basically these are technical amendments to clarify the purposes of the bill and to remove some anomalies that have arisen—and there are one or two of them—and to remove hardships that have arisen in certain circumstances which, I would say, would encourage those firms that were affected by the current provisions of the bill to undertake more research and development.

Senator Yuzyk: I should like to ask a question about research and development. How far are we in Canada behind, percentagewise, in this particular field of research and development, when compared with the United States?

Mr. Douglas: This is a very difficult comparison to make. You will appreciate that there are some rules of thumb, Mr. Chairman, that people have used. I think that the basis of every comparison that has been made can be criticized, but at the present time in Canada we are spending something of the order of 1.8 per cent of our gross national product on research and development. In the United States they are spending something over 3 per cent.

Senator Yuzyk: They are spending almost double what we are.

Mr. Douglas: About double.

Senator Smith: If you double 1.8 you get, according to my mathematics, 3.6.

Senator Yuzyk: It is almost double. I did not say it was double. I would like to inquire if any of these companies are American companies, and, if so, how they are responding to an incentive of this kind?

Mr. Douglas: We have found, Mr. Chairman, that the subsidiary companies are responding just as well to this incentive as Canadian owned companies.

Senator Yuzyk: I am glad to hear that.

The Chairman: Are there any further questions on clause 2? Shall this clause carry?

Hon. Senators: Carried.

The Chairman: We now come to clause 3. This clause, as you know, honourable senators, has to do with associated corporations—two companies applying together or working together on research. Are there any questions in regard to this clause?

Senator Smith: I understand this is new, and there has not been any experience with it under the act.

Mr. Douglas: That is correct.

Senator Smith: Has there been some evidence that if companies can get together, they will more likely become involved in research and development?

Mr. Douglas: Clause 3 is essentially designed to prevent companies from circumventing the base provisions of the act to gain benefits by amalgamating. This is not an amendment which is likely to increase or provide any additional incentive to industry.

The Chairman: In other words, it is to streamline the operation of the application of the act.

Mr. Douglas: Essentially it is designed to clarify the provisions of the act respecting amalgamated corporations, but it provides that amalgamated corporations shall not, through the process of amalgamation, divest themselves of the base period expenditures of their predecessor corporations in calculating their eligibility for a grant under the act.

Senator Cameron: Do you not think it is more than that? Because of the curtailment of activity in the oil industry, for example—particularly in the geophysical field—there are quite a number of amalgamated companies. I would think that these amalgamations have been made necessary by the economic climate, and the result of the amalgamation is the continuation of probably stronger companies in these fields. This simply makes it possible for them to carry on and take advantage of the act rather than trying to circumvent it. I look at it in a more positive way than that in which you have just put it.

Mr. Douglas: Certainly, companies which do amalgamate will not, by virtue of this provision, suffer any reduction in the amount of grants to which they would be eligible.

The Chairman: Are there any further questions? Shall clause 3 carry?

Hon. Senators: Carried.

The Chairman: Clause 4, you will notice, has to do with the recovery of grants from corporations to which property is sold. I think from what we heard during the presentation of the bill, there has been some difficulty in recovering a grant when a corporation has sold to another company. Are there any questions regarding this clause? Shall clause 4 carry?

Hon. Senators: Carried.

The Chairman: Shall the bill carry?

Hon. Senators: Carried.

The Chairman: Thank you, honourable senators.

The committee adjourned.

Queen's Printer for Canada, Ottawa, 1970

Second Session—Twenty-eighth Parliament
1969-70

THE SENATE OF CANADA

PROCEEDINGS
OF THE
STANDING SENATE COMMITTEE
ON

HEALTH, WELFARE AND SCIENCE

The Honourable MAURICE LAMONTAGNE, P.C., *Chairman*

No. 10

WEDNESDAY, JUNE 17th, 1970
THURSDAY, JUNE 18th, 1970

Complete Proceedings on Bill C-144, intituled:

"An Act to provide for the management of the water resources of Canada including research and the planning and implementation of programs relating to the conservation, development and utilization of water resources"

WITNESSES:

Department of Energy, Mines and Resources: Hon. J. J. Greene, P.C., Minister; Mr. A. T. Davidson, Assistant Deputy Minister (Water); Dr. A. T. Prince, Director, Inland Waters Branch; Mr. J. P. Bruce, Director, Canada Centre for Inland Waters; Dr. Roy Tinney, Acting Director, Policy and Planning Branch.

The Procter and Gamble Company of Canada Ltd.: Mr. George Williams, President and General Manager; Mr. W. C. Krumrei, Director of Technical Government Relations.

Electrical Reduction Company of Canada Ltd.: Mr. L. G. Lillico, President; Dr. G. D. McGilvery, Manager, Research Department; Mr. R. J. Comfield, Sales Manager, Detergent Industry.

Colgate-Palmolive Ltd.: Mr. R. L. Turner, President and General Manager; Dr. R. B. Wearn, Technical Director of R. & D. (U.S.A.); Mr. R. F. Bonar, Vice-President and General Counsel.

REPORT OF THE COMMITTEE

21837—1

THE SENATE COMMITTEE ON HEALTH, WELFARE AND SCIENCE

The Honourable Maurice Lamontagne, *Chairman*

The Honourable Senators:

Bélisle	Fournier (*Madawaska-Restigouche*)	Michaud
Blois	Gladstone	Phillips (*Prince*)
Bourget	Hays	Quart
Cameron	Hastings	Robichaud
Carter	Inman	Roebuck
Connolly (*Halifax North*)	Kinnear	Smith
Croll	Lamontagne	Sullivan
Denis	Macdonald (*Cape Breton*)	Thompson
Fergusson	McGrand	Yuzyk—(28)
Fournier (*de Lanaudière*)		

Ex officio Members: Flynn and Martin

(Quorum 7)

ORDER OF REFERENCE

Extract from the Minutes of the Proceedings of the Senate, Tuesday, June 16, 1970:

"Pursuant to the Order of the Day, the Senate resumed the debate on the motion of the Honourable Senator Laird, seconded by the Honourable Senator Kinnear, for the second reading of the Bill C-144, intituled: "An Act to provide for the management of the water resources of Canada including research and the planning and implementation of programs relating to the conservation, development and utilization of water resources".

After debate, and—
The question being put on the motion, it was—
Resolved in the affirmative.

The Bill was then read the second time.

With leave of the Senate,
The Honourable Senator Laird moved, seconded by the Honourable Senator Kinnear, that the Bill be referred to the Standing Senate Committe on Health, Welfare and Science.

The question being put on the motion, it was—
Resolved in the affirmative."

ROBERT FORTIER,
Clerk of the Senate

21837—1½

MINUTES OF PROCEEDINGS

WEDNESDAY, June 17th, 1970.
(11)

Pursuant to adjournment and notice the Standing Senate Committee on Health, Welfare and Science met this day at 9:35 a.m.

Present: The Honourable Senators Cameron, Fergusson, Flynn, Fournier (*De Lanaurière*), Inman, Kinnear, Lamontagne (*Chairman*), McGrand, Martin, Robichaud, Smith, Sullivan and Yuzyk—(13).

Present, but not of the Committee: The Honourable Senator A. H. McDonald—(1).

In attendance: Pierre Godbout, Assistant Law Clerk and Parliamentary Counsel and Director of Committees.

Upon Motion, it was *Resolved* to print 800 copies in English and 300 copies in French of the Proceedings of the Committee on Bill C-144.

Bill C-144, "An Act to provide for the management of the water resources of Canada including research and the planning and implementation of programs relating to the conservation, development and utilization of water resources", was considered.

The following witnesses were heard:

Department of Energy, Mines and Resources:

Mr. A. T. Davidson,
Assistant Deputy Minister (Water);
Dr. A. T. Prince,
Director, Inland Waters Branch;
Dr. Roy Tinney,
Acting Director, Policy and Planning Branch.

After debate, it was *Resolved* that further consideration of the said Bill be postponed.

At 11:45 a.m. the Committee adjourned until Thursday, June 18th, 1970 at 10:00 a.m.

ATTEST:

Patrick J. Savoie,
Clerk of the Committee.

THURSDAY, June 18th, 1970.
(12)

Pursuant to adjournment and notice the Standing Senate Committee on Health, Welfare and Science met this day at 10:00 a.m.

Present: The Honourable Senators Belisle, Cameron, Croll, Denis, Fergusson, Flynn, Fournier (*De Lanaudière*), Hastings, Inman, Kinnear, Lamontagne (*Chairman*), McGrand, Martin, Michaud, Phillips (*Prince*), Robichaud, Smith, Sullivan, Thompson and Yuzyk—(20).

Present, but not of the Commitee: The Honourable Senators Aird and McDonald—(2).

In attendance: E. Russell Hopkins, Law Clerk and Parliamentary Counsel and Pierre Godbout, Assistant Law Clerk and Parliamentary Counsel and Director of Committees.

Consideration of Bill C-144, "An Act to provide for the management of the water resources of Canada including research and the planning and implementation of programs relating to the conservation, development, and utilization of water resources", was *Resumed.*

The following witnesses were heard:

The Procter and Gamble Company of Canada Ltd.:
Mr. George Williams, President and General Manager;
Mr. W. C. Krumrei, Director of Technical Government Relations.

Electrical Reduction Company of Canada Ltd.:
Mr. L. G. Lillico, President;
Dr. G. D. McGilvery, Manager, Research Department;
Mr. R. J. Comfield, Sales Manager, Detergent Industry.

Colgate-Palmolive Ltd.:
Mr. R. L. Turner, President and General Manager;
Dr. R. B. Wearn, Technical Director of R. & D. (U.S.A.);
Mr. R. F. Bonar, Vice-President and General Counsel.

Department of Energy, Mines and Resources:
The Honourable J. J. Greene, P.C., Minister;
Mr. A. T. Davidson, Assistant Deputy Minister (Water);
Mr. J. P. Bruce, Director, Canada Centre for Inland Waters;
Dr. Roy Tinney, Acting Director, Policy and Planning Branch.

Upon Motion it was *Resolved* to report the Bill without amendment.

At 1:23 p.m. the Committee adjourned to the call of the Chairman.

ATTEST:

Patrick J. Savoie,
Clerk of the Committee.

REPORT OF THE COMMITTEE

THURSDAY, June 18, 1970.

The Standing Senate Committe on Health, Welfare and Science to which was referred the Bill C-144, intituled: "An Act to provide for the management of the water resources of Canada including research and the planning and implementation of programs relating to the conservation, development and utilization of water resources", has in obedience to the order of reference of June 16, 1970, examined the said Bill and now reports the same without amendment.

Respectfully submitted.

Maurice Lamontagne,
Chairman.

STANDING SENATE COMMITTEE ON HEALTH, WELFARE AND SCIENCE

EVIDENCE

Ottawa, Wednesday, June 17, 1970

The Standing Senate Committee on Health, Welfare and Science, to which was referred Bill C-144, to provide for the management of the water resources of Canada including research and the planning and implementation of programs relating to the conservation, development and utilization of water resources, met this day at 9.30 a.m. to give consideration to the bill.

Senator Maurice Lamontagne (*Chairman*) in the Chair.

The Chairman: We are meeting this morning to consider Bill C-144, and I would now entertain a motion for the printing of our proceedings.

> Upon motion, it was *resolved* that a verbatim report be made of the proceedings and to recommend that 800 copies in English and 300 copies in French be printed.

The Chairman: We have with us this morning some officials from the Department of Energy, Mines and Resources. On my immediate right is Dr. Allan Davidson, who is the Assistant Deputy Minister in charge of water. Next to him is Dr. Roy Tinney, Acting Director of the Policy and Planning Branch, and finally there is Dr. A. T. Prince, Director of the Inland Water Branch.

These gentlemen are here to give us, first of all, a brief statement of the bill, and then to answer our questions. Before inviting Dr. Davidson to speak I should like first to consult with the committee as to the procedure we should follow. Should we hear a general statement first? How does the committee wish to proceed?

Mr. A. T. Davidson, Assistant Deputy Minister (Water), Department of Energy, Mines and Resources: Mr. Chairman, perhaps I might make some general comments—they will be quite general and not too long—and then we shall try to answer your questions.

The Chairman: The bill is in three parts, and I am wondering if it might shorten the discussion if the members of the committee were to express their centres of interest. Does any member of the committee have any problem with respect to Part I of the bill. We might be able to shorten the discussion if there are no questions on that part.

Senator Smith: Mr. Chairman, would you like to consider Part III? That is the part on which there has been some correspondence from interested parties.

The Chairman: I know that we have had representations about this, but in order to plan our hearings I think it would be a good thing to know if any member of the committee has any objection to Part I. If not then I am sure that we can go through that part with reasonable speed. What about Part II? We are not adopting these parts now. It appears that there are no specific problems with respect to Part II.

Senator Robichaud: There may be some questions on Part II having to do with provincial jurisdiction.

The Chairman: Yes. It can be seen that the interest of the committee will centre on Part III, so perhaps, Dr. Davidson, you might allocate your time proportionately. However, you are free to make any statement you wish.

Senator Cameron: Mr. Chairman, I think that Parts I and II are like motherhood in that everybody is for them, and the questions are likely to be as to the timing or urgency of Part III.

The Chairman: It would be a good thing to have a general statement dealing with the whole bill to start with, but I think that our guests this morning know that our interest is centred on Part III.

Will you proceed, Dr. Davidson?

Mr. Davidson: Thank you, Mr. Chairman. Honourable senators, many of us in the Water

Sector of the Department of Energy, Mines and Resources have been following the debate in the Senate on Bill C-144, the Canada Water Bill, with considerable interest.

It seems to me that Senator Laird, in his opening address, admirably summed up the principles of the bill. That address and the debate that followed it covered almost all of the aspects of the bill, and there is not much point in my going into great detail here concerning the legislation itself. However, it may be worth while if I spend a few moments reiterating some of the main points in the bill.

In some ways it may be possible to look at the legislation from the point of view of four aspects. First of all, it is a piece of legislation aimed at both the comprehensive management of our water resources, and at the control of the problems of pollution in our waters.

Secondly, it is a piece of legislation for co-operative action with the provinces.

Thirdly, it is a piece of legislation which has considerable strength or muscle, even though it does look primarily to co-operation with the provinces.

Finally, it is principally a piece of enabling legislation, and for that reason the administrative arrangements which will be established following the passage of the legislation are particularly important.

Perhaps I can speak to each of these main points for a moment or two now.

When I say that the legislation is meant for both comprehensive water management and the control of pollution in our waters, I mean that there are separate provisions in the bill for each of these aspects. Part I has largely to do with comprehensive water management, and Part II with the control of pollution.

It is the intention of the Government that the management of Canadian waters shall be done on a comprehensive basis. This is, as Senator Cameron said, rather like motherhood in water management circles. It is dogma in world-wide water circles that a comprehensive approach should be taken to water planning and water development. Most nations that I am familiar with are attempting this comprehensive approach, some of them with considerable success and some with less success. The reason, of course, is that there are great gains to be made if the comprehensive approach to the planning and development of water resources can be carried out successfully.

In each watercourse we propose to look not at just the pollution aspects but also at the problems of water supply, water levels, life in the water, recreational uses, industrial uses, and so on. It is our belief that comprehensive water management is the most appropriate approach to obtain a maximum benefit from Canada's water resources.

In some ways this must seem almost self-evident for it is clear, if we look at the geography of any one of our major water basins, that water is put to many uses in many different places. For example, the St. Lawrence River is used for shipping, for fishing, for power, for recreation, and, it is true, for disposal of a very large amount of waste. All of these uses of the water—even the disposal of waste—are in some way legitimate. However, it must be pointed out that the disposal of waste into a watercourse is only legitimate if it does not interfere with any other uses of that water resource.

Since a river is used for many purposes, it is necessary to take account of all of these purposes in its management. For that reason we intend to engage in comprehensive planning wherever possible.

However, Part II of the bill is devoted almost exclusively to water quality management of Canadian waters. I think the honourable members of this committee will recognize that this section of the legislation is necessary too. In some places the problems of pollution are out of control, and it is necessary that we have provision in our legislation for getting them back under control as quickly as possible. For that reason Part II of the legislation is devoted to a series of provisions aimed directly at pollution control.

For the first time, this legislation provides for a federal model of pollution control, which can be joined, if necessary, by the provinces.

Secondly, I said that the bill was a piece of co-operative legislation intended to permit the federal Government to co-operate with the provincial governments in the solution of the problems of our water resources. Again, I think the members of this committee will recognize that this is a necessary aspect of any legislation on the comprehensive management of Canadian waters, for they will recognize that control over the waters of Canada is an area of divided jurisdiction, with the provinces having control over many aspects of our water resources and the federal Government having control over others. Since that is the case and since no level has adequate powers

to manage completely the water resources on its own, it is necessary that we co-operate with the provincial governments wherever possible in the management of Canada's water resources. For that reason the legislation looks to the establishment of a series of co-operative agencies which I will describe in a moment when I talk about the enabling aspects of the legislation.

Given the fact that we do face an area of divided jurisdiction, the co-operative aspects of Bill C-144 will be a source of considerable strength, but when I referred a moment ago to the muscle in the legislation I was referring specifically to the provisions for unilateral action by the federal Government if necessary. This would occur in cases where co-operation with the provinces cannot be achieved, and where the situation is clearly a matter of great national urgency on an important water body. We hope and sincerely believe that the imposition of this unilateral action will not be necessary, and that the provinces will be willing to co-operate with us. But, if they are not, and if the problems in watercourses are matters of national urgency, then honourable senators may rest assured that it is the intention of the Government to act alone wherever necessary. The other muscle of the bill is the large fines, up to $5,000 per day, for illegally depositing waste.

Fourthly, I said that this was a piece of enabling legislation. As such, the administrative arrangements which are established around the legislation are particularly important. For that reason perhaps I could spend just a moment in describing for you the administrative arrangements which we anticipate will be established under the act.

First of all, the water sector of the Department of Energy, Mines and Resources provides the home for the Interdepartmental Committee on Water which was established by decision of the Cabinet in 1968 to co-ordinate the activities of various departments in the sphere of water resources management. This committee will continue to be active in co-ordinating policies, programs, and plans of all water activities within the federal Government.

In addition to these internal arrangements the Canada Water Act provides for consultative arrangements with the provinces. First of all, we are now establishing ten such consultative committees, one with each of the provinces across Canada. These consultative committees, which will consist of high level officials in the federal and provincial governments, will meet together regularly to establish the major priorities for action in each province. They will also act as the most important direct link between the provincial governments and the federal Government with respect to the general management of water resources.

Once a consultative committee has decided that a particular river basin is of major priority to both governments we anticipate that a basin board will be established. This basin board would also consist of officials of the federal and provincial governments, and it might also include some representatives from municipal governments or private industry within the water basin under review. The basin board would be responsible for the comprehensive planning of a particular water basin, and it would delegate some of its activity to private consultants and to various interest groups to advise the basin board on its planning. The activities of groups together with those of the basin board will result in an integrated plan for the entire water basin. The plan developed at this stage would be widely advertised for public comment before being forwarded to the provincial governments in question and to the federal Government. If these governments approve of the action which the basin board recommends, then it will be possible to implement the plan for that river basin. In that case an implementation board will be required, and it will probably consist of much the same people.

A similar process would be used for water quality management planning and implementation except that the operational group in this case under the terms of the bill could be incorporated.

I notice in looking over the Debates of the Senate that some of the honourable members are concerned about the proliferation of the agencies which may occur under the Canada Water Act. I must admit that on first examination the bill may give that impression. However, we intend that wherever there is an existing federal or provincial agency which can do the job of the Basin Board, then that agency will be allowed to do the job. An amendment to that effect was inserted in the legislation during the deliberations of the House of Commons Committee on National Resources and Public Works. In short, wherever there is an existing agency we will not duplicate its activities. In this way we know

that we will cut down very greatly on any proliferation of agencies which may occur.

I think it must be recognized that there are many agencies now engaged in the kind of program we are proposing, and the idea is not to proliferate the agencies, but to provide a focus by which they can be brought together in one place, and thus avoid duplication.

Those are the main elements of the bill, but I should like to spend just a few moments on some of the premises beyond these sections.

First of all—and perhaps in view of your main interest I am talking too much about this—we believe that a greater net benefit will accrue if we plan for all uses, resolving conflicts in use to achieve optimum solutions. We have stressed this not only in comprehensive planning, but in saying we want optimal levels of water quality rather than uniform levels.

As I say, some may think that we are stressing this too much, but major investments in water resource development are long term investments, and they are difficult to change once having been made. In a country like Canada, where water resources are so important, it is essential that our planning and development be on a sound basis, so that we do not make the mistakes that are being made in some other countries, and so that we do get the best social and economic results for the whole country.

We also believe that the polluter must pay in the first instance, and transfer his costs, wherever necessary and appropriate, to the consumer of goods and services. To put economic pressure on the waste disposer to seek efficient waste disposal, we have introduced the concept of effluent discharge fees. This is one of the possible tools of the water quality management agency. To ensure financial compatibility we have provided loans to water quality management agencies for capital works and operating expenses.

Finally, because the perception and attitude toward pollution by the public generally is such an important factor, we have provided for extensive public information programs.

I could go into greater detail on these major policies, Mr. Chairman, but I think that it is sufficient to indicate that the philosophy behind this bill is to seek optimal, efficient and effective solutions to our water problems, and to harness not only compulsive forces but also economic forces, and moral suasion, to achieve these objectives.

Rather than spend more time on the principles of the legislation perhaps I could briefly review the legislative proceedings through which this bill has passed up to now. I would like to spend a moment doing this because I have the feeling—I have a hope, anyway—that this legislation has had very extensive examination by the public, the press, provincial governments and legislators. I think that will redound to the advantage of the legislation when it does come into effect, and I think for that reason that it is important that I spend a moment discussing it with you.

A very preliminary draft of the legislation was prepared in the spring of 1969 and in August of last year we published a policy statement and information kit which outlined the general principles behind the Canada Water Bill, and invited the public and provincial governments to make their comments. Shortly after the publication of those documents the Honourable Otto E. Lang, who was at that time acting for Mr. Greene as Minister of Energy, Mines and Resources, and a few senior officials undertook a trip across Canada to talk with the water minister in every provincial capital. This trip gave us the initial reaction of provincial governments to our legislation, and we proceeded with the drafting of the legislation. The bill was given first reading in the House of Commons in November.

Following first reading in the House of Commons, the bill was put aside until early January by the House. This did not mean however that examination and review of the legislation ceased. Indeed, the provincial governments continued to give us their reaction to the legislation, and we continued to search for ways of taking their comments into account wherever they appeared to be an advance. We held scores of meetings with provincial governments and industry during this period.

Second reading of the legislation in the House of Commons began in January, and there was at that time an extensive debate lasting for several commons sittings. This debate was extremely valuable to us in framing our ideas, and several of the criticisms which were brought up then were incorporated in amendments to the legislation.

Following second reading we again asked the provinces for their reaction to the legislation, and we again received numberous comments from them. The federal-provincial conference of finance ministers in February of this year gave us an opportunity to examine

briefs on the bill by most of the provinces, particularly the problems of pollution. At this conference we were encouraged to introduce a major amendment on phosphates and other nutrients.

Following second reading of the legislation in the House of Commons, and after the federal-provincial conference in February, the bill went to the House of Commons Committee on National Resources and Public Works. The committee held 36 hearings in which they examined the legislation and heard witnesses from all sides of the Canadian economic and social scene. Some of the witnesses supported the legislation and, needless to say, some of them had criticisms to make, which again guided us for still further amendments.

Towards the end of the committee stage of the legislation, a series of Government amendments were proposed. These amendments took account of such things as the problems caused by phosphates, of providing for loans to water quality management agencies under the act, and of making perfectly clear the federal Government's intention that the legislation was aimed at co-operative action with the provinces wherever possible. These amendments were incorporated in the legislation during the committee stage, as were a number of amendments which had been proposed by the opposition parties.

Following the examination by the House Committee on Natural Resources and Public Works, the bill returned to the House of Commons for the report stage where it again received extensive debate. Once again this debate was useful in helping us to frame our ideas on the legislation.

The Chairman: May I interrupt you at that point to ask when exactly was Part III included in the bill? Was it at the committee stage?

Dr. Roy Tinney, Acting Director, Policy and Planning Branch, Department of Energy, Mines and Resources: It was quite late in the committee stage.

The Chairman: What do you mean by "quite late"? There is apparently some divergence of opinion. Can you check that?

Dr. Tinney: I do not have it here, but I will check the date.

The Chairman: And there were no hearings on Part III in the House?

Mr. Davidson: I think that specifically on Part III there were not. There were some people who gave evidence with regard to that subject.

Dr. Tinney: Yes, there were, Mr. Chairman. General testimony was given on the subject of phosphates at the hearings.

The Chairman: That was when Part III was included in the bill?

Dr. Tinney: No, I think this was before Part III was included, but the announcement that we were going to include Part III had been made. Then we introduced the specific wording of Part III, and there were several hearings on Part III, but there was no testimony.

Senator Robichaud: When was the announcement of the inclusion of Part III made?

Dr. Tinney: It was during second reading. The first announcement of the action was made on February 6.

Senator Robichaud: And second reading took place when?

Dr. Tinney: The debate on second reading began on November 20. There was a speech made by the minister in the debate on second reading in which he made this announcement regarding phosphates, and then the particulars were given on February 6.

The Chairman: Would you check those dates for us?

Dr. Tinney: Yes.

Mr. Davidson: Finally, the legislation received third eading in the House of Commons on June 4, 1970, and was sent to the Senate for your consideration. In addition to these formal proceedings we held numerous meetings with industry, particularly with the detergent industry, with whom the Honourable Mr. Greene has discussed the control of phosphates at several meetings since November, 1969.

I think that the members of the committee will understand from what I have said that the legislation has already undergone extensive examination at many stages by many people. We hope that the bill that is now before you is a more valid piece of legislation because of that exmaination. In addition, I know that my minister, and the people who have been concerned with the writing of the legislation, have very sincerely appreciated the deep thought which many people have put into their criticisms of the bill.

Mr. Chairman, that is all I have to say, and I am prepared now to answer your questions.

The Chairman: Would you like to add something, Dr. Tinney?

Dr. Tinney: No thank you, Mr. Chairman.

The Chairman: This statement is a very useful background for our discussion. I will now entertain questions from the members of the committee.

Senator Fournier (De Lanaudière): Mr. Chairman, hwne a decision is taken by the department condemning somebody for their activity in polluting the water or the air, are there any means by which that party may appeal the decision and have a chance of being heard by some sort of tribunal?

The Chairman: I do not think there is any provision at the moment that allows for that.

Mr. Davidson: There is the due process of law.

Dr. Tinney: There is one principle clearly set out in the bill for examination and comment with regard to pollution, and that is that the water quality management plan developed by the agency to be referred back to governments for their approval must be publicized in the newspapers for four weeks for comment before the governments can approve it. This was specifically added as an amendment during the committee stage at the suggestion of an Opposition member.

The Chairman: But when somebody wants to make representations under that provision he has to go back to the minister.

Dr. Tinney: Yes.

Senator Robichaud: Has this bill any direct relationship with the Fisheries Act, which has been recently amended by Bill C-187? My reason for asking this question is that here there is a description of the word "waste". In the Fisheries Act they use "deleterious substances". Is there any direct connection between this bill and Bill C-187?

Mr. Davidson: I would believe those definitions are compatible. The one in the Fisheries Act as amended is more specifically oriented to fish. That is, waste is defined as substances harmful to fish. The definitions of "waste" under the Canada Water Bill and under the amendment to the Fisheries Act are generally compatible. There was a great deal of discussion on this to make sure they were, both interdepartmentally and, I understand, in the committee of the other place.

The provisions in general have been made compatible by the fact that where there is a water quality agency under the Canada Water Bill, then the amended Fisheries Act would not apply; the water quality management process under the Canada Water Bill would have precedence, to make sure there is no conflict between the two. I think this has been fairly carefully considered.

Senator Robichaud: It has been looked into by the legal advisors of the department?

Mr. Davidson: Yes, very much so.

The Chairman: Perhaps this is an unfair question. You referred in your initial statement to the possibility provided in the bill that the federal Government, in certain cases of national urgency, would intervene when it has not been successful in securing co-operation of the provinces. Under what constitutional authority would the federal Government be empowered to intervene? Would it be under the criminal law section, or works to the general benefit of Canada, or what?

Dr. Tinney: The head of the constitutionality of that would be peace, order and good government. This is why the preamble in the other part of the bill referred to urgent national concern establishing peace, order and good government as a properly constitutional head.

Senator Sullivan: I suppose this is the muscle of the bill.

The Chairman: That has been a very contentious basis up to now. I remember, for instance, when I was a civil servant and we were trying to prevent the famous Kaiser deal in B.C.; we introduced special legislation to deal with international water especially in that case. There was a provision in order to make sure that there would be federal jurisdiction; there was a provision so that these works were declared works to the general advantage of Canada, which of course places these things clearly under federal responsibility. However, I think to base that new power only that very general base is perhaps a little dangerous.

Dr. Tinney: It has been the subject of considerable debate, because it is an initiative, a new assertion, under peace, order and good government. It has been very carefully examine by Justice. The testimony before the com-

mittee in the other place was very conclusive, that there were these powers of the federal Government in that area. I am not a lawyer, and I cannot defend it, but I am just saying that the record on this is quite clear. There was extensive examination on this point, and the decision was that one cannot get a certificate of approval on constitutionality.

The Chairman: If that one sticks, I suppose this would mean a major constitutional development. I hope they are right.

Senator Cameron: This is one of the critical areas in the bill, and I think generally speaking everybody is in favour of the intent and purposes of the bill. However, I feel very definitely that this is one area where we are just asking for trouble, and are likely to get it. We tried this on Mr. Bennett in British Columbia. In fact, there are arguments going on now about the Peace River dam and what it is doing there. I suspect it would not be hard to generate an argument in the Province of Quebec on the same issue. I think I have a better solution to offer, because it is something we had better look at very, very carefully and be sure the legal evidence is there. I have not seen it yet.

The Chairman: Apparently this was discussed in the committee of the other place.

Mr. Davidson: Perhaps I might comment here. In discussion with the provinces, yes, they expressed concerned about this. However, generally they recognize the problem that exists, that if there is pollution flowing from one province to another in which there is damage to downstream interests...

The Chairman: I can see that. You might not have any trouble with that kind of problem, but if the federal Government uses this very general power—which has not been really recognized up to now by the courts as being real and effective power—and if the courts recognize that power now for this purpose, it may also be applied to all kinds of other sectors. That is where the provinces, while being completely in agreement with the objective of this bill, will object to the federal Government using this very broad power, which has been used only in time of war up to now.

Mr. Davidson: Yes, I think that is true.

The Chairman: There is a great danger.

Mr. Davidson: It does apply in the bill only on inter-jurisdictional waters where these conditions would arise, where there would be obvious effects downstream outside the jurisdiction of the province against others. From the practical point of view, the provinces are in general not opposed to this idea, but it is true that some are from the constitutional aspect.

Senator Cameron: We had a case in Edmonton of the C.I.L. plant at Fort Saskatchewan, moving the Saskatchewan River into the Province of Saskatchewan and Manitoba. It was settled amicably, but you could see the sparks beginning to fly, and that was only a relatively minor case.

Mr. Davidson: That is a type of case in point. If Manitoba and Saskatchewan were being severly damaged because there was not adequate water quality in the Saskatchewan River and no agreement could be reached between the governments involved, if it could be shown to be a problem of national interest we could fall back on that part of the bill.

Senator Cameron: I am in sympathy with the objective, but I am wondering if there is any other way of achieving the objective rather than a donnybrook with the provinces.

The Chairman: Has there been any discussion on resting this part of the provision on the power of the Canadian Parliament to declare local works to the general advantage of Canada, which is the constitutional question?

Dr. Tinney: Yes, Mr. Chairman, that and the criminal power have been examined rather extensively, but there is an impediment in both. Declaratory powers give us difficulty, because what do you declare? The whole river? There is great difficulty with what you declare. It is the fact that it is a river between provinces that gives rise to the problem. You can scarcely declare the whole river in this way. It is not meant to be.

The Chairman: That is what you are doing anyway.

Dr. Tinney: But not under that constitutional head.

The Chairman: If you take over that is what you are saying.

Dr. Tinney: Only the pollution aspect. We are really not declaring the river a federal river.

The Chairman: But you could say for the purpose of this act these works would be

declared to the general benefit of Canada. In any case, I do not know if we should pursue this for very long- here. We might if you wish to ask people from Justice to come here, if you think this is sufficiently important. However, as you very well know, we are prepared for time and we may not be able to get to this.

Senator Robichaud: I understand this was thoroughly discussed in the committee of the other place.

Dr. Tinney: Yes. There is extensive testimony from the hearings by expert witnesses outside the Government, and by the Department of Justice on this point.

The Chairman: You will break new ground if you succeed.

Senator Cameron: Leaving that for the moment, the bill proposes the establishment of a number of co-operative agencies to administer the bill. I wonder if there is a danger of getting a multiplicity of agencies, with duplication of personnel and a conflict of interest. I assume this has come up before, but I think people are becoming increasingly concerned about the great number of government agencies in every walk of life. Maybe we cannot avoid it, but what steps are being taken to limit the number of agencies and avoid possible conflicts that can arise?

Mr. Davidson: I think, as I suggested in my remarks, the hope would be that there would actually be fewer. If we take the Saskatchewan Nelson system, as it is now there are three provinces and two or three federal agencies involved in various aspects of the management of the river. The hope will be that the planning functions might be concentrated in one, and if there is a program of development a similar agency, perhaps almost the same one, would supervise the implementation. There would be only the one for that very large basin, with many agencies and a number of jurisdictions involved. There would be no reason to have any more than that.

Senator Cameron: You are satisfied this is the way it would work out?

Mr. Davidson: Yes. I do not think there is much question about that.

Senator Cameron: Because in the course of our experience here we have known cases where one government agency reaches a stage where it does not talk to another.

Mr. Davidson: This is the very point of this, to try to establish an umbrella agency for that basin, on which those agencies will be represented.

The Chairman: They will be represented, but what if they do not want to co-operate? Let us take an example. Let us take the Atomic Energy Control Board. They have the responsibility to define the safeguards in respect of atomic power. You will not have that authority.

Mr. Davidson: No, that is true. I think, though, generally what we lack sometimes now is an institution oriented towards an objective, one institution that people can work through. If that does not exist, then different agencies go off in different directions and you do get conflict. If we are to get the gains from the comprehensive approach, we must set at least one institution in place to bring these people together. I think what gives the impression of proliferation is the use of different words in the bill like "boards", "commissions", "water quality management agency".

Senator Cameron: You are quite right.

The Chairman: Even within the federal Government there are so many agencies involved with water from various points of view, of course, but they all effect the quality of the water.

Mr. Davidson: That is right.

The Chairman: We are concerned about welfare, atomic energy control in Canada, the Department of Fisheries.

Senator Fournier (De Lanaudière): Who makes the analysis in order to decide whether or not the water is polluted? Is it the Natural Resources Board or the Department of Agriculture?

Mr. Davidson: This would be done by the board established for that area. For example, we are now engaged in a planning study for the Okanagan, in which there are both federal and provincial agencies, and the Department of Fisheries is involved as well as ourselves on the federal side. The board will jointly determine the extent of pollution and describe it.

Senator Fournier (De Lanaudière): Do we actually have the laboratories?

Dr. A. T. Prince, Director of Inland Water Branch, Department of Energy, Mines, and

Resources: Yes, we have an agreement with the Province of British Columbia at the present time on the Okanagan study, and samples are sent either to the laboratories at Victoria, our laboratory at Calgary, or a mobile laboratory located right on the site on the Okanagan.

Senator Fournier (De Lanaudière): And they are properly equipped to detect any cause of pollution?

Dr. Prince: Yes, they are. There is agreement on method and procedures.

The Chairman: Suppose there is some disagreement. For instance, suppose officials from the Department of Fisheries do not agree with the majority of the board that they have a specific responsibility under their own act with respect to pollution of fish. What happens if they do not agree? It goes back to the Cabinet table?

Mr. Davidson: I think it is always possible that they would not agree, but it is less likely when a group of people are working together to do a common job. It is more likely if each agency goes its own way; if Fisheries draws its plan and B.C. draws its plan, then we will have diversity.

Senator Robichaud: In other words, it is quite an improvement over the situation that has existed so far?

Mr. Davidson: I think so.

Dr. Prince: Perhaps I could comment on this. We had a lot of training in this respect in relation to the I.J.C. reference on pollution of the Great Lakes, when internationally and federally, provincially and interstatewise, there was a great deal of problem early on in connection with methods of analysis. This led to the setting up of a committee on establishing methods to be used for the determination of the various perameters required, an exchange of samples to make sure we could check, so that everyone would agree within reasonable experimentational limits on the determination. This is not easy, but it was very successful. That sort of pattern is evolving as a result of composite agencies getting together. If there is one single management, many agencies can participate. We are talking with the Department of Fisheries at the moment, for example, in connection with the mercury problem. Many agencies are involved in this, and the efforts of these groups is towards agreement.

The Chairman: Let us go back to the constitutional question. What is the clause that deals with the civil power for the federal Government to intervene where co-operation has not been secured?

Dr. Tinney: It is in clause 11, dealing with federal water quality management. You see that it discusses inter-jurisdictional waters and the water quality management of those waters having become a matter of urgent national concern. Those are two restrictions. Paragraphs (a) says:

> The Governor in Council is satisfied that all reasonable efforts have been made by the Minister to reach an agreement under section 9 with the one or more provincial governments having an interest in the water quality management thereof, and that those efforts have failed.

Paragraph (b) says that if you have entered into an agreement and there is no success, no motion under the agreement, again there is unilateral action.

The Chairman: And that unilateral action can be taken even on purely provincial rivers?

Dr. Tinney: No, sir. It has to be inter-jurisdictional water. The first line of section 11 says:

> Where in the case of any inter-jurisdictional waters.

"Inter-jurisdictional waters" is defined in clause 2(1)(g):

> "inter-jurisdictional waters" means any waters, whether international, boundary or otherwise, that, whether wholly situated in a province or not, significantly affect the quantity or quality of waters outside such province;

it has to have an extra provincial effect before there can be any federal involvement in this.

Senator Cameron: There is another aspect that might come into this. If the federal Government decided to set up one of these areas because it could not get co-operation from a provincial authority, it might run into a situation where, say, a large company finds its interests involved. In such a case the company would be capable of hiring and bringing in a lot of expertise, and there could be some pretty costly litigation. It may be perfectly right that this should happen, that the public authority must prevail over a private agency, but I am trying to anticipate the sort of dif-

ficulties you might get into in this kind of situation.

The Chairman: As you know, the interprovincial trade clause has never been recognized by the courts as being effective in our constitution, and that is what worries me. Again I think probably we will leave that matter as it is, unless you specifically want to hear people from Justice on it.

Senator Cameron: I just wanted to raise it. In the discussions you said you had with the provinces, what has their attitude been? Has it been co-operative all along the line, or were there any areas of disagreement that would likely be brought into sharper focus in the case of a controversy developing?

The Chairman: I know a province which was pretty negative before April 29.

Mr. Davidson: I think the general attitude of the provinces was favourable. They felt that the federal Government must take a role in this, and that the federal Government needed to put their own house in order better to perform that role. They saw the validity of the need for federal action when there were effects outside the province from actions taken in the province. As far as the mechanics of co-operation are concerned, they liked them; they said it was the right way to approach an area where there is divided jurisdiction. There were some provinces who were concerned that their programs, which they regarded as good, would somehow be adversely affected. We assured them it was the intention that provincial agencies would have full rein and would be employed. That was the original intent of the bill as drawn, but we made some amendments to make it even clearer that the provincial agency could be designated.

There were some who, although they agreed with the general premises of the bill, and with all the mechanics of the operation, particularly when it was amended—it came down to perhaps a couple of provinces—were still concerned about the constitutional aspects, but I do not think they were able to suggest an alternative. I do not think they ever gave us a hard alternative. I think that is just about where it lies now. Most provinces think the posture is generally right, the mechanics are good, that it has a good chance of joint success, but they remain a little bit nervous about it. But only, I would say, about two. Even the Province of Quebec, from the point of view of the operation of the bill, considered that the mechanics set out were good, and said that they would be prepared to join with us on inter-jursidictional waters, but they were concerned about the constitution.

The Chairman: Shall we proceed to Part III, then?

Senator Yuzyk: I should like to ask a question with respect to clause 3, consultative arrangements with the provinces, and I would refer you to the words "intergovernmental committees or other bodies". How does the minister, or the Government in this case, visualize the appointment of such bodies or, say, the composition of such bodies? Would they be 50 per cent provincial and 50 per cent federal? Is there a formula?

Mr. Davidson: Yes, the present formula is 50 per cent provincial and 50 per cent federal, and they report to each of their governments.

Senator Yuzyk: And would the other bodies that can be appointed be temporary bodies? I am referring to page 5 of the bill where it says: "or other bodies".

Mr. Davidson: Yes, there is an example of another body in the Prairie Provinces Water Board, which is a kind of committee established by the three Prairie provinces and the federal Government, and which has been given responsibility for recommending planning and possible development in regard to the entire Saskatchewan-Nelson Basin.

Senator Yuzyk: That is, the federal Government is giving this responsibility to this body?

Mr. Davidson: No, by agreement between the four governments, the board is given this responsibility. It is not really a consultative committee because it is not between one provincial government and the Government of Canada; it is between the four governments. There may be need for other such bodies where there are interests that cross provincial boundaries. For instance, the Great Lakes-St. Lawrence system may at some time have to be looked at as a whole, in which case some kind of consultative body may be established between the United Sates, Canada, Ontario and Quebec. That is a rather vague phrase.

Senator Yuzyk: I think that that is very important because the sooner we get to dealing with pollution on the Great Lakes, which is already on an international basis, the better, and we shall have to have at least one

body to deal with this problem. Now, have there been any negotiations with the Government of the United States? In some cases we shall have to be dealing with specific States.

Mr. Davidson: Yes, certain discussions with the United States have already commenced following the receipt of the interim report of the International Joint Commission on the water quality of the lower lakes and the connecting channels. The final report of the International Joint Commission will probably be received in October or November of this year, so we are now starting discussions in order to see how the two governments will react to that report. Ontario is involved also in the discussion, and within the year the States will be involved.

The Chairman: Do you not think that when you see the final report you will have second thoughts about this legislation?

Senator Yuzyk: I was going to ask the same question.

The Chairman: I thought you might have seen an advance copy of that report. There are so many leaks these days.

Mr. Davidson: What we have seen is the advisory board's report to the International Joint Commission, which has been made public. We assume that the International Joint Commission may report on somewhat the same basis, but I think the relevance of this legislation to that issue is this, that in the past there have been other reportst of the International Joint Commission on the water quality of international waters. The International Joint Commission reported and recommended to the governments certain action that they should take under the Boundary Waters Treaty. This was action that was needed in order to meet the obligations under that treaty.

On the Canadian side, since there was no Canadian water policy and no Canadian institutions, what happened was that the Government of Canada could accept the recommendations but had no way of implementing them. If a province implemented them that was fine, but if not the result was a lack of action on the report of the International Joint Commission. What this bill should now give us are institutions on the Canadian side, whether they be federal or provincial, which can respond to those recommendations if the Government agreed to carry them out. We did not have that before.

Senator Yuzyk: I think that this is very important.

Mr. Davidson: I think it is vital.

The Chairman: Has there been any indication that the Americans will act similarly along the lines of this bill, and on the basis of the report of the International Joint Commission?

Mr. Davidson: That is one of the very things we shall be discussing with the Americans over the next few months. We will be asking: Can they respond to the IJC recommendations on their side, and in what way? We maintain they must respond because they have obligations under the treaty. We are saying that we are putting our house in order so that we can respond, and we are going to be asking them if they can respond, and hopefully we shall be pressing them to respond.

The Chairman: At what stage—I apologize if I seem to asking too many questions, but the members of the committee have only to raise their hands...

Senator Yuzyk: May I pursue this matter of the intergovernmental committees that will be formed and their powers, because their powers seem to be quite board on the basis of consultation. I am wondering whether such a committee, for instance, in dealing with detergents under Part III, is in a position to review the work that has been done up to a certain stage, and then perhaps find that some of the work was, shall I say, off the beam, or that other evidence has shown that the whole matter would have to be reconsidered and reviewed, and a different decision made. Would such an intergovernmental committee have that power?

Mr. Davidson: They would have the powers only to consult and then to recommend, but they certainly would have the power to review on-going programs in order to determine whether they are satisfactory, and then to recommend to the governments.

The Chairman: I suppose that we might now hear a little bit more of the background to Part III of the bill, because I notice that you did not touch on this very much in your opening statement. I think that we as a committee should probably insist on this part particularly since the committee of the other place did not deal with it as extensively as it should have been dealt with. However, that is not our business, although we understand

that there was not enough time allowed for the hearing of all interested parties. That is why I commenced this meeting by expressing a special interest in this part of the bill.

Having regard to all of the research that has been carried out can you tell us the role of phosphates as a factor, among other agents, in polluting our water.

Mr. Davidson: I might say just a word of introduction, and then perhaps I should ask Dr. Prince, who is much more technically qualified than I am, to fill in. There has been research throughout the world for, I suppose, a couple of decades, at least, that has indicated that the introduction of phosphorous into water is a contributing factor to its eutrophication, or enrichment, or aging. Perhaps Dr. Prince may want to comment on some of the research that has gone on over a long period, but the largest and major piece of research was that to which he referred, namely, the study by the Advisory Boards of the International Joint Commission on Lake Erie, Lake Ontario, and the international section of the St. Lawrence River and the adjoining channels. I think it is fair to say that this is probably the biggest water quality study that has ever been made in the world, because of the size of the body of water and the complexity of the issues. It started in 1964...

Dr. Prince: That was the date of the reference.

Mr. Davidson: Then perhaps it was 1965 before the study got under way, and it was terminated last year. Those reports compiled what the Boards accepted as major evidence that phosphate were a major contributing factor to the pollution of Lake Erie, Lake Ontario and the adjoining channels.

The Chairman: Did they find it was the major factor, or that it was the most easily controlled factor?

Mr. Davidson: Perhaps I should let Dr. Prince tell you that.

Dr. Prince: I think the answer to that is that both things were found—that phosphorus in its various forms as it is found in water is perhaps the most critical and most sensitive nutrient element, and that it does control the rate and the quantity of cell build-up in the water. But, it is not the only factor. There is no question about that.

The Chairman: What would be the proportion? I am sure that it is very hard to put a figure on it, but would you say that 80 per cent...

Dr. Prince: Do you mean it is 80 per cent significant...

The Chairman: Yes, as compared with other possible factors of eutrophication?

Dr. Prince: I do not think it would be possible to put a percentage on it in just that way. Certainly it is a critical element in the formation of cells and the build-up of bio-mass. One recognizes that carbon, nitrogen, phosphorus, hydrogen, oxygen, and all of those elements are necessary in the building of cells, and also a number of trace elements such as manganese, and so on, are required. The thing is that if you look at the actual bio-mass composition, the sort of semi-dried out cells, you find out what elements are necessary to go into those cells to make them up, and you find, for example, that of the principal elements other than water itself, there is a ratio of 40 parts of carbon, to 7 parts of nitrogen, to one part of phosphorus. So, phosphorus among those three, is the minor component, but it is a vital component. If the phosphorus supply is diminished then the quantity of cell growth will diminish. If there is plenty of phosphorus available, and if all the other things are there to go along with it, there will be an enormous bloom.

To be specific about the report of the International Joint Commission on the Great Lakes, and looking at Lake Erie and Lake Ontario only, questions have been raised particularly about the availability of carbon. Carbon is perhaps the key. I am sure the members of this committee have read a great deal concerning the question: Is carbon the key element, or is phosphorus the key element? Perhaps the IJC report went too quickly to the critical thing, without dispelling the other questions that have arisen. We have looked at this question since the report, and in the Great Lakes system there is no question at all about the natural availability of carbon in enormous excess over the amount required for the build-up of cells.

It is difficult to put round figures on this sort of thing, but looking at the one natural source of carbon contained in the water then we see that Lake Erie contains at all times something between 10 and 12½ million tons of carbon, as a constituent of the natural hardness radical, bicarbonate—that is the hydrogen-carbon-oxygen radical. It is a quality characteristic of the water. There are mil-

lions of tons available at all times to provide carbon for the build-up of algae cells and other things.

The question of the in-put of carbon from waste sources has occupied people's attention considerably, and the IJC report has an inventory of total in-puts of wastes, and you can calculate from the parameter called the B.O.D.—the biochemical oxygen demand—the rough equivalent of carbon that is put into the waters in the wastes that escape from treatment plants, or direct deposits of industrial waste.

In comparison with the 10 million to 12 million tons that I spoke of as a natural carbon constituent, the annual total of all wastes deposited in Lake Erie is about 75,000 tons, which is a very small fraction of the natural available carbon. Other sources of carbon include the atmosphere—the carbon dioxide in the atmosphere which, if the waters are not saturated, can penetrate and be dissolved.

Now, looking at the history of the past many decades, there has been virtually no change in the carbon availability in the lake. There is evidence...

The Chairman: In spite of the increased number of farms?

Dr. Prince: In spite of the 75,000 tons, which is insignificant. It is largely decomposed locally and very rapidly by bacterial action. It contributes in a very minor way to the total carbon balance, but it decomposes very rapidly.

There is evidence over past hundred years that the amount of bicarbonate in Lake Erie has not changed. There were early analyses made of the water as far back as one hundred years, and there has been virtually no change. That carbon is contributed from natural geological processes whereby carbonic acid, which is carbon dioxide dissolved in rain water, combines with calcium and magnesium and other elements, and forms a small amount of soluble material which is contributed by the streams to the lakes. And this is the big resource pool of carbon.

The Chairman: Can yo tell us to when you can trace back the beginning of the decay of Lake Erie?

Dr. Prince: The question of the decay of Lake Erie—there have been intermittent blooms back as far as 30 or 40 years. There are records of these occurring intermittently, and they were presumably due to local enrichment phenomena. But, the general trend of events has increased over the past three decades, the post-war period particularly, and in broad material balance is correlated with the rise of phosphate in-put with agricultural practices, with greater populations, and particularly in regard to detergent use, and the detergent use is perhaps the largest single source of phosphate in-put.

If you ask what is different in this period then I have to say that the thing that is different is the phosphorus balance. This has gone up quite perceptibly over the past several decades.

It has been estimated, for example—and this is shown in the tabular material in the IJC report—that some 30,100 tons of phosphorus per year is contributed to Lake Erie. Of that total contribution by far the most comes from the United States. It is estimated that about 40 per cent of those 30,000 tons comes from detergent source, principally from the United States.

The Chairman: I think I have seen figures on this, and I think, if I remeber well, it was about 80 per cent that was coming from the United States.

Dr. Prince: I think that that figure would be about correct—from all sources.

The Chairman: Eighty per cent from all sources, and what proportion of that 80 per cent would be attributable to detergents?

Dr. Prince: In the overall balance of the lake I would say 40 per cent of the total—that is, 40 per cent of the 80 per cent—would come from the U.S.A. That may be a little higher in proportion because they use more phosphates in detergents than we do, but it is a very big source. We think the lake would improve proportionately with a phosphorus cut-back. The lake should retain an in-put of probably not over 10,000 tons, instead of the 30,000 tons. We can go pretty far along the road with detergent control, but other things are essential in order to get complete control.

So, the phosphorus in our view, is a very key element that is required in the build-up of bio-mass. I might say that some 2 million tons of bio-mass is built up every year—that is in terms of carbon equivalent—which certainly could not be built up from 75,000 tons of carbonaceous waste.

The control of phosphorus is possible by an improvement in man's use of the elements for

many purposes. It is about the only element at the moment that one can get a handle on, and bring within a control range that would be acceptable to the lake environment.

We should not go too far in the other direction because there is the question of the productivity of the lake. This is not a matter of the phosphorus being all bad. There is a minimum limit below which the lake would not be productive, and this limit is not exactly known, but it is somewhere of the order below 10,000 tons, and maybe below 8,000 tons. We have to retract and keep the rate at about 20,000 tons per year of in-put somehow, but about 12,000 of that amount is in the detergent at the present time.

The Chairman: Assuming that phosphates were eliminated from detergents, do you feel that you would have to eliminate other sources of production of phosphates, such as sewage treatment plants, and so on?

Dr. Prince: I think so, depending upon the limits and the quality of lake water that is required. The lake at the present time is quite highly eutrophic; it is very productive of good things and bad things, and the algae are the bad things. The limnologists and biologists indicate that a proportionate improvement would occur relative to the amount of cutback of phosphorus, and if the quality of that lake is to go back to one of clear water generally with the avoidance of algae blooms, then we are going to have to cut back further than would be possible with the detergents alone.

Then comes the question: What is the priority for advance waste treatment for phosphate removal in tertiary or other form of treatment? Here, I think, again in the sense of management, as Mr. Davidson has pointed out, one would have to accept on a priority basis where the principal sources are, and where the money should be spent on abatement. The City of Detroit is a major source of in-put. They are starting to get it under control, and of course they have passed the experimental stage now. I think a great deal of improvement can come from the major point sources, but the detergent control would contribute very significantly to the abatement.

Senator Cameron: Mr. Chairman, I have read in some of the literature that has come out that the United States has no intention of doing anything about this immediately. If we have this legislation coming into effect by August 1st and when we consider that our proportion of the contribution to the pollution is about five per cent...

Dr. Prince: That is on Lake Erie.

Senator Cameron: Yes. When we consider that the Americans are not proposing to take any steps at the moment, so far as we know, does not this seem to be a useless exercise?

The Chairman: I understand that the Muskie committee of the Senate in Washington is investigating this. At what stage are they, do you know?

Dr. Prince: This is a non-technical question, and perhaps Dr. Davidson or Dr. Tinney can respond to it.

Senator Cameron: But it is true that they are not planning to do anything about this immediately. They may be doing something in six months or a year from now, but we have this deadline of August 1st.

Dr. Prince: For a start.

Mr. Davidson: Mr. Chairman, in our discussions with the Americans they have said that they are actively considering it, and they expect to make a policy decision soon.

The Chairman: But these are officials.

Mr. Davidson: These are officials.

The Chairman: As you very well know, officials in the United States are much less powerful than Canadian officials.

Senator Smith: Is that your experience?

The Chairman: Yes.

Senator Cameron: The point is, it would seem to me that the legislation is desirable but it should be concomitant action.

The Chairman: I wanted to pursue this and get some information about the state of the investigation under the chairmanship of Senator Muskie. They have had a series of hearings.

Mr. Davidson: Yes, I know the hearings are on, but I do not know at what stage they are at. Are they completed?

Dr. Prince: I have not followed those.

The Chairman: They certainly will not take action as far as the Senate is concerned there before Senator Muskie's committee reports.

Mr. Davidson: It should be remembered that it is not only Lake Erie where we are concerned about eutrophication. Its effects have not been studied widely on other major lakes throughout the country. There is no doubt that Lake Erie is a classic case. If what is said is true of Lake Erie, it is probably true to a greater or lesser extent in thousands of other lakes, so our concern in legislation is not only with Lake Erie, although I agree it is an important area...

The Chairman: It is a priority area.

Mr. Davidson: ...for processes of eutrophication throughout the country in thousands of lakes.

Dr. Prince: Could I just comment on this? I have used the example, as I explained, of the case of Lake Erie where Canada is the minor partner in crime; there is no question about that at all. If you move to Lake Ontario, the situation is very different. Here Canada and the United States are about equally responsible for the direct inputs. If you take Buffalo-Niagara-Rochester and so on in comparison with, say, the Canadian Niagara frontiers of St. Catherines, Hamilton, Toronto and so on, here the inputs are almost equal from the industrial and municipal sources. Perhaps even here the growth in Canada is exceeding that in the United States.

Lake Ontario is in a situation of being just about on the borderline of being eutrophic. There are algae blooms locally; there is not a general malaise yet, but it is coming along. So if one looks at the question of control on the part of Canada unilaterally, with regard to the health and the future of Lake Ontario, this in itself becomes significant. It would be possible for Canada to remove perhaps three or four thousand tons of phosphorous a year from the inputs to Lake Ontario, and we are dealing here with somewhere around 13,000 tons input. This is a very significant proportion.

Senator Robichaud: Would it have an effect of forcing the issue in the United States if we make a start?

Dr. Prince: The question being raised is a political one in a sense.

Mr. Davidson: I think it is a political posture on the issue with regard to Lake Erie.

The Chairman: Have you followed the evidence which has been given before the Muskie committee?

Mr. Davidson: I have not.

The Chairman: I understand there is quite a divergence of opinion among scientists developing before the committee.

Mr. Davidson: We have followed the evidence before the I.J.C. public hearings, and before earlier committees in the United States, and we will follow this one also.

Dr. Prince: I suspect in this connection, too, since we will be meeting with the United States officials and senior political people sometime in the next week or two we may get around to that.

The Chairman: I am rather surprised you have not followed this more closely. I do not question your scientific knowledge and so on, but it seems to me that since much of that research, especially at the private level, has been done in the United States, not only about detergents and phosphates but also possible substitutes, it would be quite interesting to look at that evidence from the Canadian point of view.

Dr. Prince: I am sure some of our people are following this in detail at the moment. Is the question here one of substitutes for phosphates?

The Chairman: As I understand it, there is a divergence of opinion developing more and more about phosphates and the role of phosphates as opposed to carbon dioxide, the role of the contribution of detergents in phosphate production; there is a debate going on.

Dr. Prince: I am sure there is debate on this, but with the evidence we have had over the past many years, the evidence which I gave this morning based on the material balance of the lake, I can see a debate can go on for a long time on this, but I do not think it is germane to the subject.

The Chairman: It is germane to the extent that if the Muskie committee, for instance, recommends doing nothing about this, then perhaps we will be able to clean other water areas in Canada, but the priority arises and we will not be able to do much about it.

Dr. Prince: If you are speaking of Lake Erie, this is perfectly true.

Senator Inman: I am interested in that question before we finish with it. What effect does phosphorous have on tidal waters?

Dr. Prince: Phosphorous, as I indicated, is an important nutrient. If it can be diffused and distributed adequately in tidal waters and salt water to build up a nutrient capability it is generally good. If it is not concentrated in too great amounts, it can contribute to the biological productivity of the sea. The same is true in fresh waters, except that here we are overloaded; many parts of the marine environment are deficient in phosphorous, and it can be good if it can be controlled in its distribution.

Senator Inman: I am asking because, as you know, I am from the Province of Prince Edward Island, and that is what I am speaking of. We are beginning to have this question down there; I think people are getting panicky about it.

Senator Cameron: There is something about this that puzzles me. There is probably a very good explanation for it. I have done quite a bit of hunting in my time.

The Chairman: Lucky man!

Senator Cameron: That was in western Canada, where for some years the algae growth was extremely heavy. This goes back to the days of my youth; this is before detergents were being ejected into the water.

The Chairman: How long ago!

Senator Cameron: I leave that to you to guess. I have seen the rise and fall of algae in different years in sloughs and lakes, and it is tremendous. This is before there were any detergents. Well, there are no detergents going into them yet, so this gives me some cause for concern.

You have referred to scientific evidence for this. From my reading, it seems to me that there is a growing body of evidence that challenges the conclusion that phosphorous is the main cause of the difficulty. It is certainly one. Any farmer knows that they are adding phosphorous and nitrogen as two of the main elements in fertilizers spread on the land, and of course there is an accusation that the farm run-off is one of the major pollutants too. There are people today, knowledgeable scientists—again mainly in the United States—who say that to make phosphorous the main criminal may be not accurate, that there may be other elements. I have certainly studied all the literature available, but I have a disturbing feeling that this is one of the areas in which the evidence is not conclusive yet.

Dr. Prince: I suppose no evidence is conclusive.

The Chairman: Even in the exact sciences, so-called.

Dr. Prince: One has to go with the preponderance of evidence on decision-making at times. I am quite sure that there are factors, refinements of this, that are not known. I can only base my comments on a very exhaustive study which was known, which had been released in principle in earlier preliminary reports of the I.J.C., two or three years or more ago, indicating that phosphorous appears to be the difficulty. None of these voices that appear to be so strident at the moment were heard at that time. A great deal was exchanged in the six international public hearings of the I.J.C. advisory board reports. This controversy arose at that time. I suppose the question of what causes cancer, or whether cigarettes are a good or bad thing, is in the same ballpark of controversy. One never gets unanimity of opinion among scientists, even if they are supposed to be entirely objective.

Senator Cameron: You have obviously cast your vote!

The Chairman: I was told by the President of the Cancer Association that as far as I was concerned the damage had already been done.

Senator Kinnear: I have noticed that Dr. Prince has not said anything about mercury in the waters, and difficulties with fish in certain waters, in Lake Huron and some in Lake Erie. What evidence have you about the mercury?

Dr. Prince: The mercury problem is one that has been detected primarily in fish flesh, and the lead on this particular problem at the moment is because it involves the question of a noxious, deleterious substance in fish that has been taken on by the Fisheries Department primarily. There is joint co-operative work going on with the Fisheries Department in this connection, in which our department, the Department of Health and a whole category of departments involved in the interdepartmental committee on water are advised of and involved in.

The Chairman: But this bill does not give you any authority to go into the mercury problem?

Dr. Prince: If the question of establishing water quality monitoring networks is entertained . . .

The Chairman: Eventually.

Dr. Prince: Not eventually. We are working in this field right now. For example, officials of E.M.R. are involved in monitoring waters on the Prairies in the connecting channels of the Great Lakes, Lake Erie and Lake St. Clair, in connection with the amount of mercury detectable in the water itself. The question of the mercury detectable in fish flesh is a matter for the Department of Fisheries. The question of mercury in sediments apart from the muds is something we are involved in as well. So we are working in conjunction with this mercury problem with the fisheries people, who are taking the lead in it at the moment.

The Chairman: That is what I mean. You deal with phosphates and Fisheries deals with mercury.

Dr. Prince: Under the nutrient amendment.

Dr. Tinney: Under the nutrient amendment we deal with nutrients, but under the general powers of section 2 mercury is a waste if it is harmful to man, animal, fish or plant, so under the Canada Water Act mercury is definitely a waste and its deposit can be prohibited. It would also be a deleterious substance under the Fisheries Act. The precise regulations would be made compatible according to the way the amendments of the Fisheries Act are framed. There is no difficulty here. It can be caught under both acts.

Senator Cameron: Do you not think there should be more specific reference to the fact that this matter can be taken care of under a section of another act, that that reference should be right in the bill?

Dr. Tinney: It is the other way. It is in the Fisheries Act that there is reference to the fact that it can be taken care of under this act, because this is the paramount act, so that reference is in the Fisheries Act, and Justice says this is the simplest way to handle it.

Dr. Prince: It should be made clear that if, for example, an area where mercury pollution was a serious problem became designated under this bill, this bill would take precedence in dealing with the pollution problem.

Senator Cameron: Lawyers would agree to that.

Dr. Prince: Well, this is implicit in all parallel legislation, I believe.

Dr. Tinney: It was the same draftsman, as a matter of fact, who drafted both acts, for this very reason.

Senator Kinnear: I followed what you asked about the Great Lakes basin very carefully. I am sorry that the United States are not prepared to start at the same moment that we are, but I am glad to know that the Canadian Government is going to start, because somebody has to make a start. Probably with Lake Ontario the Canadians will be the greater offenders shortly, because we seem to be developing more along our shore than the Americans, so there is a counterbalance there; they will have to start, or we will pollute them more than they are polluting us in Lake Erie.

The Chairman: If we are first we will not.

Senator Kinnear: We will start cleaning up, let us hope.

The Chairman: We are losing our bargaining powers.

Senator Kinnear: Yes, by being good citizens of the world.

Senator Smith: I should like to ask a question on the subject of the discharge of waste by the pulp and paper industry. Under which act is this part of the general problem covered?

Dr. Tinney: Maybe I could answer that in a general way. Certainly the effluents from pulp and paper plants are waste. Whatever we designate under the Canada Water Act in a river basin as a water quality management area, we could catch practically everything, if not everything, that comes from a pulp and paper plant, under this act. At the same time as we are drawing the regulations with respect to specific standards, we would draw them having in mind the fish, so the regulations and standards that we would draw would be satisfactory for the protection of the fish. In this case, if the Fisheries Act is so amended, it will also apply, using those same standards, so there will not be any double standards. They can catch it under their act and using the common standards provided by the Canada Water Act for those basins.

Senator Robichaud: Will the penalties be equal for the same offence?

The Chairman: That is up to the courts.

Dr. Tinney: They are made equal.

Senator Robichaud: I know it is up to the courts, but they are made equal by the acts?

Dr. Tinney: Yes.

Senator Yuzyk: For some time there has been an extensive campaign by housewives and consumers against the use of phosphates in detergents. I do not know whether it started about a year ago, or maybe longer; I am not sure. I know that my wife was involved, and she is now very careful when she purchases detergents. Surely in a year this campaign, which has been going on across Canada, should show some kind of results. I am wondering whether Dr. Prince has any evidence of that. Are you able to measure the effect of such a campaign? I would assume that there would be less phosphate from detergents going into our streams now after this campaign. Secondly, is there a similar campaign going on in the United States?

Dr. Prince: As to the measurement of the effect of abatement on the part of the housewives, I think that will show results, but how soon and what proportion will be removed by this process is somewhat difficult to indicate. I can say that we have a program of continuing monitoring on the lower Great Lakes. Data are being obtained through the Ontario agencies, the Ontario Water Resources Commission, on the quality of their waters contributing to the Great Lakes. I could not say there has yet been any evidence of any diminution. I have not seen the data. All I can say is that the question of the quality of water is under surveillance, and hopefully there will be some beneficial effects from this action by the housewives.

Senator Yuzyk: How about the United States? Is there anything similar there?

Dr. Prince: I am not in a position to give any testimony about the United States attitude.

Senator Yuzyk: I am asking whether there has been any campaign there.

The Chairman: If there is a campagin in Canada you may be sure there is one in the United States.

Senator Cameron: Perhaps I have missed something, but I have not been very conscious of a campagin by housewives. As a matter of fact, I get exactly the opposite reaction... "What are we going to do if we do not have the present detergents?"

The Chairman: Perhaps our wives are part of the silent majority.

Senator Cameron: This leads to another question. Suppose we banish phosphates entirely. Are you satisfied this would cure the situation?

Dr. Prince: I think it would improve the situation enormously.

The Chairman: What about the substitute to phosphates? What about N.T.A.? Are you sure that it will not have any undesirable effect that we will discover ten years from now?

Dr. Prince: I think the question of a substitute is something that has to be evaluated. There is a substantial amount of investigation going on into N.T.A., both for its use in detergent formulations and for its effect on environment. There has been experience in the United States of the use of N.T.A. in some detergents over the past several years.

The Chairman: The past couple of years, I think.

Dr. Prince: Possibly more than two years, but at least for two years.

The Chairman: In what quantity?

Dr. Prince: There are two proprietary products that have had a partial substitute for phosphates by replacement with N.T.A. that have been marketed. I think these are minor commercial products, not big selling brands, as I understand the situation.

The Chairman: As I understand it, N.T.A. was used in rather small quantities, and I understand that at this stage at least we do not know what would be the impact of N.T.A. if it were used in greater quantities.

Dr. Prince: I think there is experience of greater quantities in Swedish practice. A joint Canada-United States task force has gone to Sweden.

The Chairman: What is the Swedish experience?

Dr. Prince: The report of the task force was that there appeared to be no serious environmental effects from it.

The Chairman: You mean the report of the task force is available now?

Dr. Prince: This was a task force set up under the interdepartmental committee on

water, with participation by personnel of the federal water pollution control.

The Chairman: I understand there is a report—I do not know if it is the report of the task force—which was supposed to become available this summer from Sweden on N.T.A., and the result of some finding of an American scientist, that they are going to have a second look and are not going to report before next fall on the impact of N.T.A.

Dr. Prince: I am not referring to that task force, Mr. Chairman. That is another one. This was a joint United States-Canada task force that went to Sweden in December, 1969.

The Chairman: I think they are taking a second look in Sweden.

Dr. Prince: The question of the approving the use of any substitute is one that is really a question the Government cannot answer.

The Chairman: The Government will have to face that situation, because it is the Government intention now to eliminate phosphates, first of all by the 20 per cent reduction. I do not think there is any great hesitation about this, about the impact of N.T.A. used in small quantities, but then when we move to the other stages the Government will have to face the situation and issue regulations. Apparently, nobody now in the world knows the full impact of NTA when used in great quantities.

Dr. Prince: I think one point should be made clear, and that is that a large percentage of the NTA will be decomposed in the treatment plants. NTA is largely biodegradable in the process of treatment, and perhaps only 5 or 10 per cent, depending upon the circumstances, will be released to the environment.

The Chairman: Is there not a degree of uncertainty there? We are only beginning to assess the impact of technology. The Special Committee of the Senate on Science Policy has visited the United States and has had all kinds of discussions with different people, and it seems to be their opinion that we know very little about the new technology that is being introduced.

Dr. Prince: I agree, Mr. Chairman.

The Chairman: It seems to me that we should be very careful. We must be reasonably sure—and I do not think we can ask for more than that—that phosphates have an undesirable effect on our waters. If that is the case then let us try to eliminate them, but let us also make sure that the substitute will not be even worse four or five years later.

Dr. Prince: This is to be hoped.

The Chairman: It is a hope now?

Dr. Prince: I think people will always question and raise doubts about any change that is being made, but there is a fair amount of confidence in NTA. One of its attractive features is its biodegradability. It is a calculated risk, and this applies to any new compound. There was a change in the surfactant synthetic soap in detergents from the hard type, or the type that caused all the froth in the environment, to another type. There was testing by the industry, and a substitute was made without all of these fears being expressed.

The Chairman: What will be the impact of the use of NTA on washing machines? Apparently it might cause corrosion, and you might have a revolt of women in reverse.

Dr. Prince: The task force looked at this when they made their visit to Sweden. There are practices in Sweden which are quite different from those in North America. For example, they tend to have their wash water very much hotter than is the case in North America. They have a practice that is not allowed in North America of having an electrical immersion heating coil right in the washing machine to heat up the water. High temperatures are experienced, and the metal of that immersion coil has deteriorated to some extent under this sort of use. The materials used in the construction of pumps and various parts of the washing machines differ. The general feeling is that in North American practice the causes of corrosion are likely to be very much less.

The Chairman: Has there been any research done in Canada on the possible effects of NTA?

Dr. Prince: Research programs have been conducted and are under way at the present time between our department and the Department of Fisheries on the effect of NTA on the environment, particularly with respect to eutrophication.

The Chairman: When were these studies started?

Dr. Prince: These studies have been under way for perhaps the last six or eight months.

Senator Cameron: You have had no results yet?

Dr. Prince: The question of the effect of NTA on the environment has been studied by some of the major soap companies—certainly by one of the large companies...

Senator Cameron: Their experience with the substance is longer than yours. They have been at it for five or seven years.

Dr. Prince: That is right.

Senator Yuzyk: For how long has NTA been under study?

Dr. Prince: For use in detergents I would have to guess that it would probably be in the order of three or four years.

Senator Cameron: Have you seen any report released by the Swedish government in the last week or two as to their position with respect to NTA?

Dr. Prince: I have heard of a report, but I have not seen it. I have heard of some information from Sweden on this.

Senator Cameron: What is the information you have heard?

Dr. Prince: I have not seen the report, senator.

Senator Cameron: I have not either, but I have heard that the Swedish government just recently...

The Chairman: I have heard that the report was postponed.

Dr. Prince: Yes.

Senator Cameron: Yes, I have heard that there are diverse reports on it at the present time. The point of the whole thing is, it seems to me, that we are all for fighting pollution and cleaning it up everywhere we can, and this act is zeroing in on the phosphates. Undoubtedly they are a great contributing factor, but it is not clear yet that they are the main factor. If you eliminate them altogether I think there will be many unhappy housewives in the country until a suitable substitute is found, and it is not known what this would do to the commercial laundries.

Dr. Prince: Mr. Chairman, on the first point, I think that the elimination of phosphate will have a remarkable effect upon algae growth. This is my opinion. On the question of commercial development I can assure you, from personal experience and exposure to research competence in the soap industry, that it has a very large investment in manpower and in laboratories for the evaluation of substances that are put into their products. I think that NTA is the subject of very substantial investigation on their part at the present time.

Referring back to the Swedish situation, and disregarding for the moment whatever recent information there is, the question came up during the task force's visit to Sweden whether the Swedish Government would approve NTA for use. The response at that time was that they would not forbid it. It is not customary for governments to give a certificate of approval for use to something; it is rather the other way around.

The Chairman: But once it is on the market...

Dr. Prince: It is subject to surveillance, and if it is found to be deleterious then it may have to be withdrawn, but to give it a clean bill of health and say that there is no possibility of its causing any harm is not something that governments wish to undertake.

I might say for the record, Mr. Chairman, that in my own home we have used materials that contained neither phosphate nor NTA over the last six months, and I have found no difference in the quality of the wash, or in the cleanliness of the shirts that I wear.

The Chairman: They are almost whiter than white.

Senator Cameron: Are you using Dr. Jones' formula?

Dr. Prince: No, I believe his formula contains a substantial amount of NTA.

Senator Smith: Is this Dr. Prince's personal formula?

Dr. Prince: Yes.

The Chairman: For the common people, if you simply reduce the content of phosphate at the moment, and put in NTA as a substitute, do you not think that some people would be inclined to use more detergent in order to obtain better cleaning, and thus perhaps cause just as much damage?

Dr. Prince: This is a possibility, Mr. Chairman. If you are using one packet of detergent

a week and not getting the result you used to get, then you might use two packets, and you are back to where you were before. This is one of the difficulties of coming along with a partial cutback. I think the IJC report recommends the elimination at as early a time as is convenient for this very purpose.

The Chairman: But we do not know with which substance to replace it.

Dr. Kinney: Mr. Chairman, the general strategy in the formulation of this bill is to catch any nutrients. It is not concerned with just phosphates, but with nitrates, and so on, as well.

The Chairman: Yes, I understand that very well. When we are reasonably sure that we are dealing with an unsatisfactory substance, then that is something, but the Government will have to accept the introduction of another substance when we do not know what its full impact will be. I say we are moving into an unknown territory, and that we have to be very prudent and wise in trying to be reasonably sure that we are really improving the situation instead of worsening it.

Dr. Kinney: That is why we have a staged program, and that is why we have an extensive research program going on in respect of the substitute that seems most unlikely.

The Chairman: You started your research on NTA six or eight months ago. The soap and detergent companies have been in this field for five or seven years, and perhaps even longer, although their intention at the beginning may have been quite different. They were looking for a better product, I suppose, and not necessarily looking at pollution. Nevertheless, they have been looking at this for a number of years. I have talked to some of them, and they claim that they are not going to appraise the real impact and the real effect of NTA when used in great quantities. So, it may take ten years for you to catch up.

Dr. Prince: This is correct. There is the matter of large quantity use, but in the matter of developing substitutes for improved performance—substitutes for the phosphates—there is a great deal of environmental experimentation done by the soap manufacturers. The matter of very large amounts, I must reiterate, is a different matter from that of phosphates generally, where essentially the entire amount of phosphate from the detergents passes through the treatment plants and is released into the environment, whereas the bulk—perhaps as high as 90 per cent—of the NTA will be decomposed and not released to the environment. This is a very important factor.

The Chairman: Yes, but if you were to find, for instance, that the scientists employed by the industry are genuinely worried about the use of NTA in great quantities, would you be impressed?

Dr. Prince: Not by the great quantity aspect.

The Chairman: But if they are genuinely worried, and since your experience in this field of research is rather limited, would you be impressed by that?

Dr. Prince: Yes, when one looks at the cause of their concern—and one has to be sure that it is a *bona fide* concern.

Mr. Davidson: I think the application of this part is a generality. Of course, we have to be concerned with all of the research that goes on for as long as the part remains in effect, because that will certainly guide whatever regulations will be passed.

The Chairman: Prudence has been a feature of all facets of the life of the Swedish people. They have been quite prudent in their approach to the problem of pollution in that the Government has worked in very close co-operation with industry, and I think we in this country would do well to note that. If we are going to move together then we will have to accept the fact that at the beginning industry may be loath to change, and perhaps will be a little negative in its attitude, but that is how change is discussed in our society. At some stage government and industry will have to work together.

Dr. Prince: I might say, Mr. Chairman, that this is taking place. We have had meetings with industry to advise them of our program in respect of NTA and other things, and they in turn have told us of what they are doing. These are not joint programs at the moment. They are going their way and we are going ours, but we are exchanging information and meeting with them, so we are not working in isolation, I can assure you.

Mr. Davidson: This is not only true of this issue but also of a great range of other pollution issues. Government and industry must work extremely close together.

Senator Kinnear: Mr. Chairman, you said that they might double the amount of NTA they would use.

The Chairman: I was referring to the amount of phosphate.

Senator Kinnear: Yes, but it depends on what kind of sudser there is with the NTA. You can only put a certain amount into a washing machine, otherwise it overflows because of the amount of suds created. You cannot put in two or three cups when you are supposed to put in only one.

The Chairman: Perhaps the committee should experiment with this.

Senator Cameron: I wonder if Dr. Prince can give us an idea of how much NTA is being produced in the United States today.

Dr. Prince: The figure that runs in my mind at the moment, senator, is somewhere in the order of 100,000 tons.

Senator Cameron: Have you any idea of how much would be required to replace the phosphate if it were agreed that this is a suitable substitute?

Dr. Prince: I think probably six, eight, or ten times that amount, but I have forgotten the figure offhand. The figure of a million tons seems to ring a bell with me at the moment.

Senator Cameron: The figures I have seen indicate that the present production is about 75,000 tons, and that to replace the phosphates at a ratio of one to 1.5 you would have to produce about 500,000 tons a year, and we are not equipped to do that. This is the thing that concerns me about this bill. We are rushing in here with something that has a great bearing on the efficiency of many households, and we certainly have not provided a satisfactory alternative.

The Chairman: I think, senator, there is no real worry that I know of about the first stage, but it seems to me that we should be very careful as a country, when we move and proceed to the other stages, that we make reasonably sure that we are not making any mistakes. After all, it took a long time to discover that phosphates were bad.

Senator Cameron: An example of this is 2.4-D.

The Chairman: Yes and DDT.

Senator Cameron: These were looked upon as great boons, and now we find that they are a curse. That is why people are concerned about what we do in respect of a substitute for phosphate. We had better test it pretty carefully.

Senator Yuzyk: We shall have to rely on research more and more, and this is what I think should be stressed even in a bill of this kind. I think there is provision made for research, but I cannot see that we are going to get far ahead unless we really extend the facilities for research on a very broad basis. From what the minister has stated I believe that is something that is going to take place very rapidly. But, what I would like to ask here about research is: Is this being done in conjunction with the N.R.C.?

The Chairman: No, I do not think so.

Senator Yuzyk: Are these separate research facilities or laboratories?

Mr. Davidson: We have a co-ordinating mechanism for the exchanging of research information, and it is improving all the time. At Burlington we are building one of the biggest and most modern, and hopefully the best, water research institution anywhere, and if this is well staffed and well administered it should put us in the forefront of research in this field. By having such an institution we shall also have people who can gather findings from everywhere around the world. It is not so much what they do that matters, but the knowledge they bring, and we should be able to do a better and better job on the research side.

Dr. Prince: With respect to the question regarding the N.R.C. and other departments I would say that certainly, as Mr. Davidson has pointed out, the inland waters laboratory is devoted to environmental studies, and that is its prime purpose, but at the present time there are many programs going on that involve many departments. For example, there is one in which we are working with the N.R.C. on the question of insecticide and pesticide residues in the water environment. This involves senior scientists from the N.R.C., and from the Department of Agriculture at London and Vineland, and from the Department of Fisheries. There are programs shaping up in the Departments of Fisheries and National Health and Welfare, as well as those that are already under way, but this is

the centre where much of the research on the environment will be conducted.

The Chairman: Are you completely satisfied that people from different federal departments and agencies are co-operating at Burlington on a day to day basis?

Dr. Prince: Yes, I am. We have, for example, an advisory committee there composed of representatives of both the federal and provincial governments, and the universities and industry. These people are looking at the programs that are developing there. On the question of co-operative work at the centre I would point out that the Department of Fisheries has a group there, and it is planned that the Department of National Health and Welfare will have some of their people there. Our own people are there, and it is up to all of these people to work together with guidelines provided by their own legislation and their own departmental requirements. This has been an effective operation thus far, and I hope it will continue.

Mr. Davidson: I think that one can be optimistic about this approach. The Dartmouth Institute of Oceanography is an example of where scientists and technical people are working together. If you give them a mission-orientation then they work well together because they are motivated to accomplish a joint effort.

Senator Yuzyk: Are you using ecologists? The study of ecology is beginning to flourish on a large scale.

Mr. Davidson: I think it is fair to say that we are using ecologists, although the terms used are a little different. We have people from a number of disciplines, and we have people who have an ecological outlook.

Senator Yuzyk: Are we trying to encourage these studies at universities?

Mr. Davidson: Yes, we have a program of university grants for research, and we are using a good deal of the money to promote university study of the environment. We are making development grants—block grants—to multidisciplinary groups.

Senator Yuzyk: It is very encouraging to hear this.

The Chairman: If there are no other questions, I would ask...

Senator Yuzyk: Shall we get down to a consideration of the bill?

The Chairman: No, we will adjourn for today, and tomorrow we will hear representations from the industry.

Senator Fergusson: At what time will the committee be meeting?

The Chairman: We shall meet at 10 o'clock in the morning.

Senator Fergusson: I might mention that the Special Committee on Poverty is sitting during the whole of tomorrow morning.

The Chairman: I would hope that you would give some priority to the meeting of this committee, because there is an urgency in respect of this bill. It has to be approved by Parliament before the summer adjournment.

Senator Fergusson: Of course, the consideration of the problems of poverty is important too.

The Chairman: Yes, but there is some urgency here.

Senator Yuzyk: You will have to decide on your own priorities.

Senator Smith: Mr. Chairman, do you expect that we shall be able to make a final decision on the bill tomorrow?

The Chairman: That is my expectation.

Senator Smith: Then I suppose you will notify the minister that his presence may be required, because it is my impression that some amendments to this bill will be proposed after we complete our study.

Mr. Davidson Dr. Prince and Dr. Tinney have to be in the west tomorrow.

The Chairman: I do not think they will be needed tomorrow, because we shall be dealing more with the administrative or policy features of the bill.

The committee adjourned.

Ottawa, Thursday, June 18, 1970.

The Standing Senate Committee on Health, Welfare and Science, to which was referred Bill C-144, to provide for the management of the water resources of Canada including research and the planning and implementation of programs relating to the conservation, development and utilization of water resources, resumed this day at 10.00 a.m.

Senator Maurice Lamontagne (*Chairman*) in the Chair.

The Chairman: Honourable senators, I call the meeting to order. As usual, we will conduct this hearing this morning informally so that the leader of each group can always call on a specialist, assistant or counsel to answer a question at any stage.

Also, in order to avoid duplication—because duplication very often is a bad thing—if members of the committee are agreed, I would call upon the representatives of the three companies to make their presentations successively, without our asking any questions, so that we would have afterwards a kind of general discussion with them all, instead of putting more or less the same questions to each group. Is this procedure agreeable to the members of the committee?

Hon. Senators: Agreed.

The Chairman: I would also express the wish—but it is only a wish, because this is a free country and a free chamber—that these formal and initial presentations be not too long so that we will have ample time for asking the questions we want to ask you.

Without any further introduction, I would like to ask Mr. George Williams, who is President and General Manager of Procter and Gamble, to make his opening remarks.

Mr. George Williams, President and General Manager, The Procter and Gamble Company of Canada, Limited: Mr. Chairman and honourable members of the Standing Senate Committee on Health, Welfare and Science, as the Chairman has said, I am George Williams. I have been with Procter and Gamble all my working life, for the past 32.5 years. I am currently the President and General Manager of our company in Canada, and I have occupied that position since March, 1965.

My colleague on my right here is Mr. William C. Krumrei. He is one of the top scientists from our parent company in the United States. He has been with Procter and Gamble for over 19 years. He is currently the company's Director of Technical Government Relations. For some years prior to that he was our Director of Product Development for the soap and detergent end of our U.S. business.

We both very much appreciate this opportunity of appearing before you and, with your permission, we would like to cover two main subjects.

First, we would like to outline to you our company's overall position with regard to phosphates in detergents; and, to summarize the program we are following as a company, aimed at reducing and, ultimately, totally replacing the phosphates in our detergent products.

Second, we would like to submit for your consideration the possibility of amending in one important respect, Part III of the Canada Water Act, which amendment, for reasons we will later outline in some detail, we regard as not only important to our own industry but to Canada as a whole.

Attached to the written version of this submission is a copy of an advertisement which appeared a few weeks ago in a number of prominent U.S. newspapers, including the New York *Times*, the Washington *Post* and the Wall Street *Journal*; and which summarizes our U.S. parent company's overall position on this subject of detergent phosphates. Attached also is a copy of a letter, dated March 25, from myself to The Honourable J. J. Greene, Minister of Energy, Mines and Resources, which makes it abundantly clear. I believe, that our Canadian Company's position parallels very closely that of our U.S. parent.

I would hope, honourable senators, if you have not already had the time to read these two documents, that you will be able to do so because they contain the most considered statement that has been made to date of our company's views, both here in Canada as well as in the United States, on this important subject.

Today, I would simply like to re-state certain key elements of our Company's position. At the same time, we are obviously prepared to provide additional information in response to any questions which you may wish to put to either Mr. Kumrei or myself.

First of all, we would like to state emphatically that Procter and Gamble—both here in Canada as well as in the U.S.—is working all-out to achieve a steady reduction in the phosphate content of all its heavy duty laundry detergents. We are, in fact, working to achieve the complete elimination of phosphates.

To achieve these objectives we have taken the following steps:

1. As the P and G advertisement and my own letter to Mr. Greene state, we have already firmly committed ourselves to a 25 per cent reduction in the phosphate content of our heavy duty laundry detergents.

In its search for a replacement for phosphates Procter and Gamble has tested literally hundreds of alternative materials; and, out of all this testing, has found only one up to the present time which will serve as a partial replacement and that is NTA (sodium-nitrilotriacetate). As a company we have done more work on this ingredient than anyone else in the world and we are confident that the use of this material to replace 25 per cent of the phosphates in our laundry detergents is safe for people and safe for the environment. The extent of our confidence is illustrated by the fact that in the United States we have already made a 25 per cent replacement of phosphates in one-third of our package detergent volume; and that in Canada a similar degree of replacement will be achieved later this summer when the necessary manufacturing and handling equipment has been installed at our Hamilton factory. In the U.S. and Canada combined we have on order $167 million of NTA and by January 1972 we expect to be making an annual reduction in the phosphates in our products well in excess of 300 million pounds.

2. Our parent company has developed and is now experimenting with products containing a 50 per cent reduction of phosphate content. This 50 per cent reduction will not necessarily be accomplished by replacement by NTA alone but may well be through a combination of NTA and other materials yet to be proven. In any event, the full benefits of this work will be made available to our company here in Canada.

3. We have under way a massive program of research to bring about the *total* elimination of phosphates from all of our heavy duty detergents. We have placed no limit on the amount of money that can be spent on this research effort.

We do not presently know how we are going to achieve this complete elimination of phosphates but we do feel confident that we will achieve this goal.

There is only one thing, as we see it, that might get in the way of our achieving our objectives. If the Canadian or U.S. Government or public pressures were to force reductions in the phosphate content of our detergents before the development of proper phosphate replacements, then, inevitably, the manpower required to find the fundamental answers which are needed to achieve the complete elimination of phosphates would be used up trying to comply with short-term minor moves.

To sum up, then. Our basic position, gentlemen, is that if there is any possibility that our detergents are contributing to the excessive growth of plant life in our lakes and streams, we want to correct that situation; and we are working to that end with all possible speed.

Our total Company has undertaken, as you can see, a very major program, costly in dollars as well as in manpower. We have done this even though there is no proof anywhere in the world, to our knowledge, that the elimination of phosphates from detergents will have any significant effect on eutrophication. Scientific opinions do differ on this point, and we think it will be many years before anyone is able to develop proof one way or the other. We cannot and will not wait for that proof to be developed.

This brings me, Mr. Chairman, to the second reason why we attach so much importance to our meeting today with you and your committee. My company is in no way opposed to the principles on which Bill C-144 is based. On the contrary, we support and always have supported the objectives of clean water and we believe our company's record throughout the world testifies to this.

Moreover, we have made it clear again and again that, as a company, we have no interest in phosphates as such. We own no phosophate mines, we have no phosphate stockpile; we use phosphates only because, within present technology, they are essential if we are to make products that will permit the users of these products to achieve the levels of hygiene and cleanliness that are properly deemed vital by modern-day standards.

We are a responsible manufacturer of detergent products in daily use in millions of homes across this nation, as well as in hospitals, dairies, food processing plants, and institutions of all kinds. Each of our products is formulated to meet the specific requirements of the individual user, whether this be the industrial user or the ordinary domestic housewife. The formulation of these products cannot be made subject to arbitrary change through regulation or legislative decree. Such changes can only be made after the most careful testing and evaluation of the total consequences of those changes.

It should be noted here that our company very much regrets that the Government has felt the need to regulate the phosphate content of our products through legislation. We have previously gone on record and have just stated again that we are removing phosphates

from our detergents and are doing this voluntarily consistent with the obligation we feel to our customers to maintain the performance which is essential.

However, we have to be realistic and it appears that we are faced with the practical fact that this Bill C-144, Part III, will be made into law. With this apparent fact in mind, our only alternative is to request your consideration of a change in Part III.

As presently written, Part III contains no appeal procedure; no review provision; nothing that would prevent the passing of regulations which could materially alter the formulation and, therefore, the performance of products such as ours without consideration being given to the potentially dangerous consequences that such arbitrary changes might involve. In a few moments I shall ask Mr. Krumrei to expand upon this very vital point.

If there is to be adequate protection against the possibility of such arbitrary regulations, then we feel it most urgent that Part III of Bill C-144 should be amended to include provisions whereby any such regulations would be objectively examined before they are put into effect; and whereby the results of such an objective examination would be taken into full account by the authorities responsible for the issuing of the regulations.

We would like to suggest that if at all possible the regulations suggested by the Minister should be reviewed by Parliament. If this is not practical then, at the very least, we would suggest that an independent Review Board system be established to review these regulations before they are put into effect. It would seem to us that the Senate recognized the desirability of some such review procedure when it established, under the Hazardous Products Act, a Review Board to which representations could be made by parties affected by the regulations under that Act.

Such a review procedure, we would hope, would enable evidence to be heard from all interested and knowledgeable parties. These would include not only the detergent industry but the dairy industry, the poultry and other agricultural industries, the home appliance manufacturers, other Ministries within Government such as Health and Agriculture, and indeed any group which might have a contribution to make or who might be affected.

The establishment of such a review procedure would go far to alleviate our industry's very serious concern and worry that, otherwise we might be regulated into taking action which could injuriously affect many areas of our economy and of our basic food supply.

This then, gentlemen, is a general review of our company's overall position on the subject of phosphates in detergents; and a brief statement of why we are so concerned about Part III of the Canada Water bill as presently written.

Thank you, Mr. Chairman. I would like now to call on Mr. Krumrei.

Mr. W. C. Krumrei (Director of Technical Government Relations, The Proctor and Gamble Company of Canada Ltd.): Mr. Chairman, and members of the Senate Committee on Health, Welfare and Science; I very much appreciate the opportunity to appear before your Committee to discuss the subject of phosphates in detergents.

In order to discuss this subject properly, I believe we need to review the role of phosphates in detergents. I do not plan to go into much detail, but I believe it is necessary that we all understand why phosphates are used in detergents and what these materials are.

Phosphates play many roles in our products; they soften water; they combine with other active materials to provide a major portion of the cleaning power; they suspend soil and keep it from redepositing on the clothes; they maintain a proper alkalinity in the wash water which is safe for fabrics, washing machine, and the woman's hands. In addition, they materially contribute to the reduction of germs in the wash water and on clothes, and thereby reduce the danger of cross-infection.

Phosphates are found abundantly in nature. They are in the food we eat, in the water we drink, and in thousands of other natural materials. Because phosphates contain the element phosphorus, they are a nutrient and, therefore, are essential to life. The phosphate most commonly used in detergents is sodium tripolyphosphate. It is one of the safest chemicals known; it is non-toxic, safe for fibers and fabrics, safe for colours and safe for use in washing machines, dishwashers and industrial cleaning equipment.

The primary purpose in asking for the amendment that Mr. Williams has requested is that it is our understanding it is possible that there would be regulations promulgated which would require early removal of all phosphates from detergents. I would like to point out some of the adverse consequences if phosphates were taken out of detergents before an adequate substitute is available.

In home laundering the cleaning of clothes would be inadequate. The basic level of sanitation in Canadian homes could decline since phosphate is excellent in reducing the level of germs. Although this loss is important in laundering, it could be most critical in cleaning bathrooms, kitchens, and sick rooms. The performance of automatic diswashing machines would be unacceptable—soil removal from dishes and silverware would be so poor as to make automatic dishwashers virtually unusable.

In addition, the cleaning and sanitation in our hospitals, restaurants, hotels, and schools would be seriously impaired. There would also be harmful effects in the dairy, poultry, meat-packaging, and other food processing industries in which detergents are required for cleanliness and sanitation. One pertinent example of a critical food processing task is the cleaning and sanitizing of eggs. Eggs have to be cleaned to remove the salmonella germs—not just the soil, but the germs as well. This is particularly important because of the danger of salmonella contamination on the eggs.

Another example, I am digressing from my text for the moment, is the dairy industry, where the cleaned-in-place equipment is cleaned by flushing it out with a phosphate containing detergent which removes the milk and soil before sterilization can take place. You cannot get adequate sterilization as long as the soil is there.

I would now like to discuss the subject of phosphate replacements and to amplify Mr. Williams' comments on the subject. Our company in the United States has started to use NTA and is confident enough of its safety to humans and to the environment to make the total commitment for Canada and the United States that Mr. Williams mentioned.

Procter and Gamble has been working on NTA for approximately ten years to determine, first, that it can be used from a performance standpoint as a replacement for phosphate, and then to conduct the many and lengthy tests necessary to prove that the material is safe to use in our products and will not, in the quantities we contemplate using, cause any problem in the environment.

Rather than take the time of your committee to discuss the safety of NTA to man and the environment, I have included as an addendum a review of the types of testing we have done and the results. Suffice it to say at this point that all of the testing indicates that NTA is a safe material for use at the levels contemplated. Essentially all of this information has already been made available to appropriate governmental agencies in the U.S. and we are in the process of making it available to the proper Canadian ministries. We also plan to continue to share these scientific data with them as they develop. We had a meeting with the environmental health people here in Ottawa yesterday.

However, before we can responsibly proceed with further replacement of phosphate beyond the currently planned level, we feel the need for large-scale field tests to study the effect of vast quantities of NTA, or any other new material, on the total environment. We are currently working with The Soap and Detergent Association and with agencies of the U.S. federal Government in implementing an NTA research program this summer. We have also started discussions with the Ontario Water Resources Commission and with the federal water quality people to work on similar programs here in Canada.

The proposed test program would enable those involved to measure what effect, if any, NTA might have on algal growth and aquatic life if it were used in the majority of laundry products in the U.S. and Canada at substantial levels. Such use could involve a billion or more pounds each year. Other work is planned and in progress to make sure that NTA at these higher levels would have no adverse effects on waste or water treatment processes.

The study of the eutrophication process is relatively new and many of the findings to date are conflicting, and so, much remains to be learned about the whole subject. To develop the fastest possible answers, it will be helpful to have co-operative government-industry research endeavours. Procter and Gamble's scientists have been co-operating and will continue to co-operate with the Government and with reputable scientific organizations on such programs.

Since your committee and other members of Parliament are interested in generating definitive answers on this problem at the earliest possible date, we urge that you help create a climate which will foster the development and sustenance of this co-operative government-industry activity.

While the work is proceeding to prove the environmental safety of NTA at higher levels of use, we are producing detergents experimentally in the U.S. with a 50 p. 100 reduction in phosphate content and replacement with NTA. If and when testing and NTA

supply permit and we move to these formulations, this would result in roughly another 300 million pounds of phosphate per year reduction in our company's use in Canada and the U.S.

At this time it does not appear probable that NTA can be used as a phosphate replacement much beyond this level, this 50 per cent replacement level. At higher levels, major problems are encountered in washing machine corrosion and caking of the product in the package. In addition, major processing problems in our plants occur with higher levels of NTA, and we do not today have the know-how to solve them.

Even at the levels of NTA we are currently using and will be using over the next two years, we have had to make substantial changes in our manufacturing facilities to make them suitable for the production of products containing NTA. For this purpose our parent company has already committed for capital expenditures of about $6,800,000 to modify our production facilities. Our Canadian company has made commitments of approximately $600,000 for the same purpose.

In view of the fact that NTA does not appear to be a satisfactory complete replacement, we are, and have been, conducting an "all-out" research effort to find a way to replace all of the phosphate content of detergents with one or more suitable materials. The company has set no money limits on this program. The only limit is the number of fruitful avenues of scientific exploration. Every productive lead uncovered by our scientists, or brought to their attention by outside companies or organizations, is being pursued aggressively by our research organization. To illustrate our dedication, you should know that during the past five years our parent company has spent over $11 million on this effort and expects expenditures this year to surpass $3½ million.

Our company research organization is set up so that the basic research aimed at finding new materials is done in the United States and the information made available to all our companies throughout the world. When a material gets to the point where it appears to be suitable for possible use, work is then picked up on that specific material by the Canadian company, and from then on the work involved in formulating our products, and testing them in the laboratories and with consumers, is done here in Canada. We have been working on detergent replacements here, as well as in the U.S., for several years. The expenditure of money for this purpose has been increasing, and in this current year we anticipate that, for this purpose alone, our Canadian company will have research expenditures above and beyond those of the parent company of between $600,000 and $700,000.

Behind all of our work is a very strong motivation to continue to produce products with the cleaning levels that our customers have chosen and demanded of our products. We feel an obligation to continue to give housewives and others of our customers in this country the best possible cleaning product. For this reason, we are seriously concerned about a reduction in phosphates without proper replacement, since such a move will clearly result in poorer cleaning and a reduction in other important performance benefits.

It has been suggested by some people that we manufacture products with different phosphate levels to try to provide to women only the amount of phosphate necessary in their specific geographic area. This cannot be accomplished practically for two reasons:

First, there is no geographically defined soft water or hard water area since even within the environs of cities such as Hamilton or Quebec City, multiple water sources have widely differing water hardnesses, and, in addition, even these water hardnesses vary from season to season depending upon the amount of rainfall.

The second reason is that as far as the washing machine environment is concerned, there is almost no soft water in this country since hardness is brought in with every load of clothes that is washed. Depending on the load size and the amount of soil, there will be an amount of additional hardness added to the washing solution of from four to seven grains per gallon. In order to ensure clean and sanitary clothes, consumers must compensate for this added hardness.

It has also been suggested that two other possible alternatives are available—soap and polyelectrolytes. For several reasons soap is unacceptable, the two primary one being:

1. Today's washing machines were designed to be used with synthetic detergents, and the performance of soap in these machines is therefore markedly poorer. Additionally, soap can cause mechanical problems in these mechanisms. In an automatic dish washer, which is a growing appliance in this country, soap is totally unusable.

2. The North American supply of fats and oils is inadequate to furnish needed raw materials for the production of soap to replace detergents. The current annual tallow production (which is the key natural material for the production of soap) is about five billion pounds. To produce soap to satisfy the needs of this country would require over half of this supply, thereby providing a serious interruption in the food supply of humans and animals.

Procter and Gamble began intensive work about eight years ago on the other replacement which has been suggested—polyelectrolytes. We proved that these materials performed very well as replacements for phosphates and that they are safe from a human standpoint for use in detergents. We are the holders of U.S. and Canadian patents outlining our work and product formulations using these materials. However, in the course of our normal environmental testing work, we discovered that these materials are not biodegradable. In other words, they could continue to remain as active materials in our lakes and streams. Therefore, they could have some adverse effect on aquatic life, and if the water is used for drinking purposes, might possibly have some effect on humans. We have further discovered that those polyelectrolytes that are modified in structure so that they are biodegradable, will no longer clean clothes effectively. Unfortunately, the relationship within this class of materials is one where good performance goes hand-in-hand with non-biodegradability. Therefore, we believe that these materials are not acceptable replacement materials in detergent products.

In closing let me summarize: As we seek and evaluate new materials, we must keep in mind that any time we replace any material in our detergents it means that we are putting a new material into the environment in vast quantities. This material finds its way into the ground water, as well as into lakes and streams, and eventually into drinking water in most areas. We must be certain that this new material will not in itself have adverse effects on the health of people who use them, or their children, or on the ecology of the country. We must proceed carefully. Many tests have to be run. No one, other than ourselves, will accept the moral, ethical, and financial responsibility for any damage that too hasty an action might cause.

Gentlemen, we have tried to outline for you the very vital role that phosphates play today in the performance of the products we make. We have told you, and we have given you the reasons why, our company expects to eliminate phosphates completely from our detergents as soon as this becomes technically possible. We have tried to analyze for you some of the adverse effects on the health and hygiene of this country if precipitate action were taken to compel us to reduce still further the phosphate content of our detergents before proven, effective replacements have been found. We have tried to put in perspective for you the magnitude of the effort which we, as a company, are making to achieve such replacements.

As a scientist I cannot support too strongly the need Mr. Williams has already expressed that we should not be placed in a situation where arbitrary regulations under Part III of the Canada Water Act would force us into a position that could be both impractical and highly dangerous to the overall economy. As Mr. Williams has said, we feel it vitally important that, before any regulation becomes law, there shall be an impartial objective and thoroughly professional review of the consequences on all segments of the economy that could flow from such regulation. Whether the mechanism of obtaining such impartial objective review is to be achieved through a Review Board or some other device is something we must leave to this committee and to the Canadian Parliament as a whole.

Gentlemen, we would be very pleased to answer any questions which you may have.

The Chairman: Thank you very much, Mr. Krumrei.

I will now ask Mr. Lillico, the President of the Electrical Reduction Company of Canada Ltd. to make his initial presentation.

Mr. L. G. Lillico, President, Electrical Reduction Company of Canada Ltd.: Mr. Chairman and honourable senators, it is a privilege to appear before your distinguished committee today on behalf of the Electrical Reduction Company of Canada Ltd.

I do not plan to take your valuable time with preamble on my company; this was attached to a letter I addressed to members of the Senate on June 8. Nor do I plan to discuss the many implications of current recommendations to reduce phosphates in household detergents. However, I am prepared to answer any questions.

You have before you Bill C-144, the Canada Water Act. It is a useful step toward pollution management and we look forward to its passage, for we share the concern of all Canadians for clean water across the nation, and subscribe to the view that industry is and will continue to be a partner in programs to achieve this objective.

As a major producer of phosphates for Canadian detergents, we are concerned particularly with the interpretation of Part III, "Nutrients", section 17 of Bill C-144. The Honourable J. J. Greene has indicated that he will use this provision to limit phosphates in detergents. We would have no quarrel with this if it would help solve the eutrophication of our lakes, but we have every reason to believe that with the removal of phosphates from household detergents, little or no change will be seen.

Up to about seven months ago, eutrophication, and the question whether detergent phosphates might contribute to it, were scientific subjects under study by qualified laboratories in industry and government in Europe, the United States and Canada. It is regrettable that in this short space of time this very complex matter, rather than remaining the subject of purely scientific investigation, has become a highly emotional public issue. The scientific community is currently divided on the question of whether phosphorus or carbonaceous material, or indeed any of fifteen to seventeen other possible nutrients, bear the key responsibility for eutrophication. Some scientists believe that the elimination or control of phosphates will clear our waters; others do not. Whichever school is right, it is clear that reasonable doubt exists as to whether phosphates are the real cause of this problem.

It should be repeated that any significant reduction of phosphate as a builder in household detergents would require that a replacement builder be found for those detergents, one that will be harmless to the environment. Exhaustive research must be completed before such a substitute is used in the large tonnages required. A current replacement, sodium nitrilotriacetate (NTA), has been suggested and has already been introduced into some laundry detergents. However, even the detergent industry has stated that any replacement material must be shown to be environmentally safe in mass use and meet the sanitary and health demands of the user. The problems that might arise from using alternatives to phosphates could be quite different from, and perhaps much more serious, than, the problems attributed by some scientists to phosphates themselves. Swedish authorities have been testing NTA for several years and still have not seen fit to issue an approval.

In a bill such as C-144, which breaks much new ground, the flexibility to constantly review and use new technical knowledge will be of importance. We believe that such a bill should contain provision for the review or appeal of regulations made under its authority, and that the minister concerned and his officials would welcome such a safeguard in the act. In these days of continually changing technology, what seems unquestionable today could well be questionable tomorrow. In addition, we believe the bill should provide for restraint on the premature use of substitutes for products classified as nutrients, until such time as they have been proven environmentally safe.

The Senate in its wisdom and experience foresaw the value of a review provision to Bill S-26, the Hazardous Products Act. We believe that the Senate should also amend Bill C-144, the Canada Water Act, to include the right to appeal before a review board. Such an amendment would ensure that the minister responsible, the concerned governments, as well as the raw material producers, manufacturers, and distributors of any product concerned, would be in a position to take into account new knowledge and technology in the examination of proposed regulations.

It is possible to be nutrient wise and pollutant foolish. I appeal to the wisdom and experience of this committee to ensure that this legislation will provide the basis for sound regulations rather than recommendations based on expediency. Only in this way could the act truly meet the objectives intended.

Mr. Chairman and honourable senators, thank you for your time. My advisors and I are prepared to answer questions in the question period. My advisors are Mr. Comfield, on my right, who is manager of phosphate sales, and Dr. McGilvery, who is manager of our research department. We are all located in Toronto.

The Chairman: Thank you very much. We will now hear Mr. Turner, who is President and General Manager of Colgate-Palmolive Limited.

Mr. R. L. Turner, President and General Manager, Colgate-Palmolive Limited: Thank

you, Mr. Chairman and honourable senators. I have with me on my right Dr. Richard Wearn, Technical Director of Research and Development, Colgate-Palmolive Limited, headquartered at our main research centre in New Brunswick, New Jersey. I also have with me Mr. Fred Trusler, Vice-President of R and D operations in Canada.

I would like to apologize that the brief before you has not been presented in French also, but we would be glad to make this available should it be necessary.

I would like at the outset to express my appreciation to the honourable members of this committee for the opportunity to present the views of my company in connection with Bill C-144, The Canada Water Act. The opportunity for a party to communicate closely with Government when it is formulating legislation that will affect that party is a valued right and privilege. In fact, as you will see, it is this proposition that is the essence of my submission and my purpose for being here.

This presentation is in two parts, and I may be criticized for putting the cart before the horse, but I will speak, firstly and directly to proposals that this company hopes to see reflected in the legislation that results from this committee's deliberations, including the specific reasons for the proposals and, secondly, to the general background of the total problem that is of a more scientific nature having to do with plant nutrients and the ecology. In this way I hope to give this committee an opportunity to raise background questions without making a change in the continuity of subject matter and then to proceed to a consideration of our specific proposals in respect of Bill C-144.

PART I

My company, as you may know, is a major manufacturer of heavy duty laundry detergents, cleaners, and cleansers. Our products are used in households, industrial plants, commercial establishments and institutions throughout Canada.

While my comments today will be confined to Part III of the bill, because this is the part that we feel is of the greatest immediate importance to our company—I would like to emphasize that Colgate-Palmolive Limited is keenly interested in all aspects of the Canada Water Act and its basic purpose. We are in complete agreement with this endeavour to bring the federal and provincial jurisdictions together in a concerted effort directed to the management of all facets of Canada's water resources.

Our company is also well aware of its responsibilities in helping to protect and restore the environment. We do not in any way question the need for immediate effective action. We realize that the generations to come will be the beneficiaries of our acheivements—and the victims of our failures—in the struggle to control degrading influences on our environment. It is for these very reasons that we advance the following for your consideration.

Since the Canada Water Act will, for years to come, provide the guidelines for and give active direction to efforts for the preservation of the quality of one of Canada's most valued natural resources, we believe that it should contain provisions that will ensure that as full and complete an opportunity as possible will be given for evaluation and comment upon the regulations proposed to be brought into being as a result of the exercise of the powers conferred upon the Governor in Council by Part III. We feel that in keeping with the democratic ideals of Canada, an opportunity should be given to those who will be affected by regulations—including members of the general public and industry—to express their views, voice their concerns and contribute their experience about the subject matter of those Regulations for the sole purpose of assuring, as far as such is possible, that they serve the best interests of all parties.

Specifically, we recommend and urge that the delegated authority to prescribe nutrients and their concentration in cleaning agents and water conditioners authorized by section 19 of Part III of Bill C-144 be made subject to review procedures of substantially the same kind as the Senate was instrumental in incorporating into the Hazardous Products Act. That is, (1) review, with the power of revocation, by both houses of Parliament within a limited time after promulgation, and (2) review by a Board of Review, and public report, at the request of affected parties.

When first considered, the regulatory powers authorized by section 19 appear to be simple and direct. However, like the tip of an iceberg, they only signal the existence of something of much greater significance below the surface.

The Honourable J. J. Greene, the Minister of Energy, Mines and Resources, has indicated on several occasions that he proposes to recommend to the Governor in Council that regulations phase out the existence of phosphates in laundry detergents in two steps, the first step to be accomplished by reducing the maximum concentration to 20 per cent as phosphorus pentoxide by weight on August 1, 1970, and the second step, near total elimination of phosphates, by January 1, 1972.

Today, much controversy flares over the relationship between phosphates, detergents, and eutrophication. On one side, some scientists, including the Technical Board of the International Joint Commission, say that phosphates in detergents are a prime contributor to cultural eutrophication. Equally reputable scientists in industry, education and government, believe that carbonaceous material is the controlling element. In between are many other scientists, engaged in research work, in like or related fields of ecology, human toxicology, product research and so on. Prime centres of this work are Canada, the United States, and Sweden, although many other countries are making their contributions as well.

With proper review procedures established, as we recommend, there would be less danger of regulations being implemented until all sides and all aspects of any question dealing with water quality had been publicly heard and assessed.

In the same context but in the more specific light of the minister's proposals to limit and then to ban phosphates in heavy duty laundry detergents, two additional related factors must be considered. The first is that a massive amount of detergent is used in Canada each year by people in homes, industries, commercial establishments, and institutions. The second is that, for each ingredient removed from detergent formulations, there must be a safe, effective, and efficient replacement or substitute.

In 1969, we estimate that between 262,000,000 and 264,000,000 pounds of powdered detergents were produced in Canada. This volume of detergents had a sodium tripolyphosphate, or TPP, content in excess of 100,000,000 pounds. Therefore, it is clear that the 100,000,000 pounds of phosphates consumed annually must be replaced by an equivalent magnitude of a substitute ingredient to achieve the ultimate goal of total phosphate elimination.

Perhaps I should establish at this point that Colgate-Palmolive, and I believe the same can be said for the majority of our industry, has no vested interest in phosphates or in the phosphate industry. There are no phosphate company investments, no long term contracts, and no heavy inventories. Colgate incorporates phosphates into its products solely because they contribute uniquely to the efficient performance of our detergents and cleansers.

In fact, in the course of discussions and correspondence with the minister, this company offered to reduce to approximately 20% P_2O_5 by January 1, 1971 voluntarily, provided the other members of industry did the same. Subsequently the minister informed us of his final decision to recommend to the Governor-in-Council reduction to this level by August 1, 1970, and we will of course comply. We have also, however, communicated the fact that we are unable at this time to conform to the second, or total elimination, step by January 1, 1972. Later in the presentation we hope to go into the reasons for this.

This company's concern for the establishment of a review procedure in Bill C-144 is directly related to these two factors; that is, the necessity for the introduction into the environment of a substitute for 100,000,000 pounds of tripolyphosphate by January 1, 1972, and the industry's inability to totally eliminate phosphates from detergents by that date. Clearly, a heavy onus is imposed on our industry as a result—an onus to maintain sanitation standards and to preserve the ecology.

Early in the controversy over phosphates in detergents, some overly zealous citizens and some members of the press seized on an old, out-of-use advertising slogan, "Whiter-than-White", and used it to disparage any talk of the benefits of phosphate detergents. Their attack is misdirected and, incidentally, it is misinformed since it was not phosphates but the fluorescent whitening agents that gave rise to the slogan.

The major consideration facing us, however, and one which has seemed hard to convey, is the true significance of the cleanliness question. Setting aside for a moment the definite psychological benefits of clean clothes, the single most significant public benefit resulting from the use of phosphate detergents is overall cleanliness and all that word implies—cleanliness not just in the sense of clean clothes, but cleanliness in the sense of

hygiene and sanitation. Homes, hospitals, restaurants, food processing plants, and thousands of other institutions and establishments all use phosphate detergents to help ensure that food, clothing, bedding, and hundreds of other items are sanitary and hygienic.

Phosphates are a normal part of most heavy duty laundry detergents that accomplish these ends and either they have to be present, or something else has to be added to replace them. The search for a replacement that is effective, efficient, and above all, safe, is not at all easy. This complex research problem cannot be resolved by hastily derived, and untested, chemical formula solutions that in themselves contain substitute ingredients the effects of which, in massive quantities, are today unknown.

For more than the past decade, Colgate-Palmolive scientists have been searching for a substitute for phosphates. Similar research has been done by other detergent manufacturing companies, and by many chemical suppliers.

I would like to note that at this point the industry has demonstrated in the past its willingness and ability to respond to an identical need, given time for thorough and complete research and testing, by the transition to biodegradable surfactants which eliminated the "floating suds" problem. This was done without lowering performance standards and without a direct increase in consumer cost.

Returning to phosphate, replacement research has also been done by Governments and universities and, as of today, no proven answer has been found.

Sodium nitrilotriacetate, commonly called NTA, is the most likely contender as a partial substitute for phosphate and has been widely publicized as such. We anticipate that NTA will be the ingredient that will be used by most manufacturers to compensate for the reduction to the 20 per cent as phosphorus pentoxide maximum on August 1. This is because it has been found that, in combination with a phosphate-based formula, NTA, at low levels, is capable of maintaining acceptable performance standards.

However, Colgate-Palmolive Limited regards NTA as still being in the experimental stage. We do not have sufficient evidence that will give us the necessary assurances that NTA is free from limiting factors that could pose a danger to humans as well as to our natural environment when used in massive amounts.

In fact, as recently as this past week, we were informed that a long-awaited report on studies of NTA by the Swedish Nature Conservation Board has been delayed to permit, among other factors, a proper assessment of a research study by Dr. Samuel S. Epstein, of Children's Cancer Research Foundation, Incorporated, and Harvard Medical School, on the subject of the potential biological hazards due to nitrates in water and due to the proposed use of NTA detergents.

I am going to depart from the text at this moment and state that, in this connection, we find that public concern has already been expressed about a possible NTA cancer link as a result of Dr. Epstein's paper. Articles to that effect have appeared in two major Swedish newspapers, and in Canada the Montreal *Star* on May 30 published a new story in which anti-pollution groups expressed their alarm at this potential problem.

In regard to the other factors surrounding the decision of the Swedish Government, these include lowered degradability efficiency of NTA in cold water, and the long degrading or dispersion time for heavy metal particles gathered and held in suspension by NTA.

In fact, in substitution for what was expected to be a lengthy and positive report on the attributes of NTA was the statement that (1) not enough information was available to approve NTA nor (2) to legislate against phosphates and (3) that efforts were best concentrated on all nutrient removal via sewage treatment plants rather than in detergents alone. I will refer to sewage treatment again at a later stage in my presentation as it represents a position long held by our industry and has been recommended by the International Joint Commission.

We know that studies on the ecological effects of the use of NTA are currently underway in Canada, the United States of America and are continuing in Sweden. We know also that fresh studies are being disclosed in this and related areas on almost a daily basis as the world scientific community focuses its attention on this new area of common and fundamental concern.

For these reasons, and after careful review of the available information, our company is convinced that action should not be taken which would force the massive substitution of a material whose assessments as yet offer no assurance as to the suitability or safety from possible dangers to ourselves and to our environment.

With this background information perhaps it is more readily understandable why we believe that the delegation of legislative authority inherent in Section 19 Part III of Bill C-144 is of sufficient significance to call for review procedures that will permit full and complete public disclosure and discussion of the ramifications of the proposed exercise of that authority before it is put into effect.

I would like at this point to present an outline—which I shall précis in view of the remarks by the companies which preceded me—the ecological considerations and general background of this problem that is responsible for the legislation that is being considered today and, as well, to explain certain factors that condition the response of the industry of which this company is a part. The relevant factors can be broken down under the following major headings:

(a) Deterioration of natural waters

(b) Contributing causes of cultural eutrophication

(c) The nature of the degradation

(d) The nutrients

(e) Phosphates

(f) Substitutes for phosphates

As I said, honourable senators, I will depart in certain instances now, because some of these points have been covered previously in this morning's presentation, and I wish to be as brief as possible.

The first point I would like to bring out is the distinction between cultural eutrophication and pollution. Cultural eutrophication is the excessive enrichment of environmental waters with nutrients arising from the activities of man. It is not pollution in the generally accepted sense of that word as it implies a danger or a hazard to man. Therefore, phosphates do not come in the same category as bacterial contamination of water by raw sewage, nor organic contamination from domestic and industrial effluents, insecticides, pesticides and related agricultural chemicals, nor viral contamination from urban or rural run-off and direct discharge of wastes. In summary, phosphates are neither toxic nor pathogenic.

The Nutrients: The principal nutrients in terms of volume are carbon, nitrogen and phosphorus. In addition, there are some 15 or more other nutrient elements, including potassium, silicon, sulphur, potassium, magnesium, all of which are necessary to sustain biological activity in natural waters.

Of the three major nutrients, only phosphorus has been singled out for attention by the proponents of reduction of phosphates in detergents. The argument in support of this approach is, in essence, that carbon and nitrogen are too widely found in nature to be reasonably susceptible of control and scientific research has not been of sufficient depth to determine their role in eutrophication fully.

The complexities of isolating the key or controlling nutrient are suggested in the Report of the advisory boards to the International Joint Commission on the Pollution of Lake Erie and Lake Ontario.

While this report does stress very strongly the significance of phosphorus, it is by no means a universally accepted theory. The growing interest of scientists in research into the causes of eutrophication has led to studies that suggest that the control of nutrients other than phosphorus may be required.

Carbon, a constituent of organic wastes, has been the subject of most recent activity in this field. As studies continue and expand, it is not beyond the realm of possibility that some other nutrient or combination of nutrients may prove to be the controlling factor.

If I seem to suggest that there is more of speculation than of certainty in this field of study, perhaps I can redress that impression by singling out one proposition that has universal acceptance, namely, that the most effective means of controlling nutrient inputs into environmental waters is through effective treatment of municipal and industrial wastes.

The Third Interim Report of the International Joint Commission, dated April of this year, at page 26, in identifying the major source of phosphorus as municipal sewage, notes that, in Canada, approximately 50 per cent of the phosphorus from this source originates with detergents and 50 per cent with human excreta. The statement is then made by way of conclusion:

> The input of phosphorus can be reduced by widespread additional treatment of municipal wastes and industrial wastes containing phosphorus. An overall programme to achieve this is essential if eutrophication is to be halted.

The detergent industry has long supported sewage treatment as the most significant and effective approach to abatement of cultural eutrophication since it serves to reduce the input of many nutrients and not just phosphorus alone.

The lime treatment process developed by the Ontario Water Resources Commission has been able to accomplish over 90 per cent removal of phosphorus at the primary and secondary stages of conventional sewage treatment plants with little in the way of added capital costs. It appears to us that a total effort is needed to reduce nutrient inputs and that sewage treatment is the means by which this can most readily be achieved. It further appears that, without sewage treatment, there is no proven scientific basis that suggests significant progress toward halting eutrophication can be achieved.

The next few pages talk of the benefits of phosphates and Mr Krumrei covered that adequately, so I shall skip those.

Colgate-Palmolive Limited laundry detergents have traditionally been formulated with levels of phosphate that we believe are the lowest that are possible without sacrificing the quality and performance standards that housewives have demonstrated they want. In fact, the phosphate levels of Colgate-Palmolive packaged powder detergents are lower than those of our major competition. We believe that an excess of phosphates is neither necessary nor economically desirable.

I have already indicated to a degree the extent to the activity that has taken place in attempts by manufacturers and suppliers to develop a substitute for phosphates. I can assure you that intensive research activity continues as of this date to achieve that objective.

May I reiterate that despite all of the considerable activity that has been expended on discovering a substitute, there is still no known substitute ingredient that will perform all of the functions performed by phosphates with complete ecological and human safety. This is the simple reason for this Company's, and I believe a majority of the detergent industry, stance against their total elimination from its products at this time.

I should add to this statement that this reason, that is, the lack of a substitute, is coupled with the firm conviction that the sanitary standards of Canadians will be seriously affected by the proposed total ban of phosphates by January of 1972 if a tested and proven substitute is not found by that time.

Therefore, in concluding my remarks on the issue of forced phosphate removal from detergents completely, we believe serious consideration should be given to a number of factors.

First, a sharp division exists within the scientific community regarding the actual role of phosphates in eutrophication and increased attention is focusing on carbon and nitrates as the possible key nutrients.

Secondly, the International Joint Commission pinpoints municipal sewage as the major source of phosphorus. It estimates that, in Canada, 50 per cent originates from detergents and 50 per cent from human excreta. It then draws the conclusion that an overall program of widespread additional treatment of municipal and industrial wastes is "essential if eutrophication is to be halted".

Third, considering the inputs of phosphates from sources other than detergents, including human waste, agricultural run-off and lake bottom sediments, and also considering other triggering nutrients, no one can say for sure that elimination of detergent phosphate will, in itself, make a useful or even a detectable difference in the algal growth of a particular lake.

Fourth, proven substitutes, that is proven for safety to the environment, to humans, to washing machines, to fabrics, have not yet been developed to permit total replacement of phosphates. Time is needed and the critical difference between a short-term health emergency and a longer term environmental corrective should be recognized and, as a result, at least the same amount of time should be given to detergent companies to develop a phosphate substitute as municipalities are being given to install necessary sewage treatment facilities.

Fifth, unilateral action by Canada to control detergent inputs of phosphorus would be useless in reducing cultural eutrophication of the widely discussed and publicized lower Great Lakes since it has been estimated that of the total phosphorus entering these lakes only 5 per cent derives from Canadian detergents.

We respectfully request, in regard to the proposed legislation, that review procedures be incorporated in Part III of Bill C-144, the Canada Water Act, similar to those contained in the Hazardous Products Act—a copy of which is attached to this brief—to permit a full and public consideration of all regulations proposed to be brought into existence as a result of the exercise of the legislative provisions of Part III.

Lastly, with respect to NTA we sincerely believe that more research is necessary to ascertain the safety of this ingredient to

humans and to the environment before massive quantities are infused into Canada's waters. We know that this research has been identified as necessary and is under way in Sweden, the United States and in Canada.

I have with me, as I noted previously, Dr. Richard Wearn, Technical Director of Research and Development of Colgate-Palmolive, to answer any questions you may have concerning NTA, as well as any other technical questions you may have. Thank you, Mr. Chairman and honourable senators.

The Chairman: Thank you very much, Mr. Turner. Now the question period.

Senator Flynn: Has this telegram been put on the record from the Canadian Manufacturers of Chemical Specialties Association?

The Chairman: No.

Senator Flynn: I think it should form part of the record. I think you have received a copy yourself.

The Chairman: Yes.

Senator Fournier (De Lanaudière): What is it?

Senator Flynn: It supports the views we have heard from the previous witnesses.

The Chairman: Is there any objection to this telegram being printed as an appendix to today's proceedings?

Senator Fournier (De Lanaudière): What is its substance?

Senator Flynn: It is the same thing, substantially, from the Canadian Manufacturers of Chemical Specialties Association and it is signed by J. H. Trotter, President.

Senator Martin: I think we should have a chance to read it, Mr. Chairman, to see what it says.

Senator Flynn: It is the same as we have already heard.

Senator Phillips (Prince): If you have a copy, Mr. Chairman, could you not read it to the committee?

Senator Flynn: I could read mine.

The Chairman: Very well.

Senator Flynn: It reads:

> Re Bill C-144 Canada Water Act the Canadian Manufacturers of Chemical Specialties Association sincerely regrets that it will not be able to appear before the Senate Committee on Health and Welfare as it had hoped to do (stop) We are grateful that the Senate committee invited the association to appear nevertheless and have taken the liberty of expressing our views in this telegram (stop) The association represents manufacturers in Canada of consumer chemical products and is interested in the Canada Water Act through its concern for the maintenance of environmental quality particularly as this relates to water quality (stop) The association is in agreement with the basic principles which the act expresses and is anxious to cooperate with Government on a continuing basis in the interests of water quality in Canada (stop) The association nevertheless strongly recommends the inclusion in the act of a right of appeal for industry against application of the regulations by means of a board of review as is the case in the Hazardous Products Act and the Pest Control Products Act (stop) The association in making this request is merely seeking a formally recognized avenue of appeal in the act over and above the right of action through the courts to which every citizen is entitled under any circumstance (stop)
>
> Respectfully submitted J. H. Trotter, President,
>
> Canadian Manufacturers of Chemical Specialties Association,
>
> 1010, St. Catherine, St. West, Suite 1004, Montreal 110, P.Q.,

The Chairman: I must add, Senator Flynn, that I have also received a letter from Mr. J. C. Lockwood, who is President of Lever Products Limited. I do not think we need to reproduce that letter in our proceedings, but in it Mr. Lockwood expresses more or less, in more simplified form, what we have heard this morning.

Senator Fournier (De Lanaudière): In terms of time how long do you think, gentlemen, it might take to replace phosphorous by another product?

Senator Flynn: A better product?

The Chairman: I think that we should ask you for your comments first.

Mr. Krumrei: As we indicated in our testimony, we are taking out 25 per cent of our

phosphorous and are replacing it with NTA. That particular step will be finished by January, 1972. There are two reasons why we are not going any faster. The first is supply. We do not make the material.

The Chairman: Do you mean that you are doing this now in the United States?

Mr. Krumrei: Yes, and in Canada. We do not make NTA; we buy it from suppliers and they have to build plants. The reason they did not start any earlier is because of the same safety information and safety concern that all of us have expressed here. There has to be a basis of safety established before somebody is going to spend that kind of money to build a plant.

The next step beyond the 25 per cent, the 50 per cent, we have not yet programmed because this requires additional capital investment by suppliers and, to a large extent, we are most anxious to get the large-scale field tests out of the way this summer to make sure that at that level of NTA usage, if all companies go to it, there is no harmful effect on our lakes. That will be done this summer. The United States Government has indicated that by the end of this year they will have completed their studies. The Canadian people with whom we have talked have indicated that most of their studies will have been done; and our work will be done. So, at the end of this year we expect to be able to put orders in, if this looks appropriate, to have the necessary plant built for 50 per cent replacement.

As I indicated, beyond that we do not know how to go. This is being worked on. We have quite a few candidates under study, but we have to be careful, senator, that we do not upset the ecology or cause any harm to people using our products. This takes time. I am sorry I cannot give you a better answer than that, because I just do not know.

Senator Sullivan: Mr. Chairman, this question could probably be answered by Mr. Turner or Dr. Krumrei.

As a medical man naturally interested in cancer research and a member of the Ontario Cancer Foundation of Princess Margaret Hospital in Toronto, I noted that you quoted an article by Dr. Samuel S. Epstein, probably one of the most distinguished scientists and research men in cancer on this continent.

On page 9 of the brief that he submitted to the subcommittee of the Committee on Public Works presided over by Senator Edmund S. Muskie, he had this to say about the use of NTA:

> ... it will, however, introduce a wide range of new toxological problems that do not yet appear to have been adequately considered and resolved.

He further states:

> Concern for protection of environmental quality is no reason to replace a relatively defined and otherwise controllable ecological problem by potential hazards to human health of undefined dimensions.

Would you say that that is the consensus of research and opinion in your particular field in both the United States and Canada?

Mr. Krumrei: Are you addressing that question to me, sir?

Senator Sullivan: Yes, or either one of you.

Mr. Krumrei: I should like to comment that in Mr. Turner's brief at page 11 he talks about a research study that Dr. Epstein is doing. We have talked to Dr. Epstein, and he is not doing any study to our knowledge. He was speculating when he made that particular comment to Senator Muskie. He was not aware of our safety data. We have since made it available to him, and will make it available to anyone else who has a real desire or need for it. Dr. Epstein was impressed by it, and he said that he would like to study it further, and he has indicated that if he has any additional questions he will be coming back to us.

We gave him information, senator—and it should be in the folder that you have there—on all of the toxicological testing that has been done, including carcinogenicity testing. We have done long term feeding studies, and we have had pathologists examine the animals. We have all this completed. We have done teratological studies—that is, studies related to birth defects.

Senator Sullivan: For how long has this been going on?

Mr. Krumrei: Our safety evaluation has been going on for six or seven years.

Senator Sullivan: Thank you.

The Chairman: But is there really a difference of opinion between you. I have read this paper, and as far as I can understand it he says that N.T.A. used in limited quantities does not seem to have bad effects, but the

uncertainty comes in when it is used massively.

Mr. Krumrei: Exactly.

The Chairman: And I think he makes the point in this paper that from that point of view there would be no disagreement between you and Dr. Epstein.

Mr. Krumrei: No, we are most concerned about moving too rapidly.

Senator Sullivan: Is not that natural of the scientific community as a whole? You, Mr. Chairman, are the Chairman of the Special Committee on Science Policy, and you know that there are variations of opinion. You know that there are certain men you would quote in preference to others.

The Chairman: I do not think they are any better than economists or lawyers.

Mr. Turner: I would like to take advantage of your kind offer, and ask Dr. Wearn to make any comments he wishes on this question.

Dr. Richard Wearn, Technical Director of Research and Development, Colgate-Palmolive Limited: Thank you, Mr. Chairman. I would like to emphasize the fact that Dr. Epstein's concern, and that of others in the scientific community, is as to the amount of NTA or any degradation products that may find their way into human consumption. That amount that finds its way into drinking water or into human consumption might be absolutely nil, but the key to that is whether NTA is completely degraded biologically in sewage treatment plants, or in the environment—in the rivers of open water. That is one of the key studies that industry and government are engaged in. In fact, it is being studied here in Canada by the Inland Waters Laboratories, which we have visited. These questions are being asked, and research is being accelerated in order to determine for certain whether NTA is completely degraded rapidly in these waste waters and sewage treatment plants.

There are many aspects of this testing. There are many types of treatment, some of which are much more efficient than others. All of this work must be completed before we know for sure whether residues of NTA, or fragments of that material which occur in the degradation process, find their way into drinking water. In the event that they do then this research becomes paramount in deciding whether it is safer. It is paramount anyway, but one must know for certain whether any amount gets into the drinking water.

The public health service in the United States is concerned about this, and they have asked the industrial people what they know. We have contributed our knowledge on it, and the same applies to the academic people. I believe that Dr. Epstein also raised the question that should NTA get into the drinking water, or become involved in human consumption, then the question of the stability of the chelates must be resolved. Some work, of course, has been done on that. Chelating is the property of NTA which enables it to tie up with calcium. That is why it is such a good phosphate replacement. It will also tie up with many toxic metals, such as copper and mercury. The question is whether it will actually pick up those dangerous metals in minute quantities and cause them to be transported to the body. Should that occur then the vital functions of the body become of concern.

So, I think this a speculative question that has been raised, but it must be resolved. We in our company certainly do not know the answers, but we believe that sufficient work will be done by all co-operating parties so that these facts will be known as soon as possible. This is one reason why our company is reluctant to contribute to the general use of NTA in practice before we know the answers.

Senator Robichaud: I should like to ask the representatives of the companies who are before us today—Mr. Williams, Mr. Turner, and Mr. Lillico—if they are aware of the statement made in the house on February 6 of this year by the minister, when he announced that he was prepared to restrict the phosphate content of detergents to meet the International Joint Commission's recommendations. Were you aware of that statement made on February 6?

Mr. Williams: Yes.

Senator Robichaud: This was followed on 24, I understand, by a meeting with the major detergent companies with the minister, and I also understand that on that day he informed the companies of his intention to impose a 20 per cent limitation effective on August 1st.

Mr. Williams: Yes, that is quite correct.

Senator Robichaud: I also understand that only one of the companies here today—that is, the Electric Reduction Company—appeared before the committee of the House

of Commons. That was on March 18. Have the other two companies applied or asked the committee of the House of Commons to be heard, or for an opportunity to present briefs?

Mr. Williams: I would like to answer that from the point of view of both the S.D.A., the Soap and Detergent Association, and my own company. Yes, we did. The reason why we did not attempt to appear before the Public Works Committee, when it was just considering the major sections of the Canada Water bill, was, of course, because that did not apply to our particular industry, and it was not until Part III of the Canada Water bill was published that we knew what exactly the minister had in mind. As soon as we knew what the minister had in mind—in other words, as soon as we were privy to Part III of the Canada Water bill, affecting nutrients, and, therefore, our industry, we immediately applied for the right to appear and to give evidence before the committee of the House of Commons. We were not given that right.

Senator Robichaud: When you met with the Minister on February 24 did he not then inform you of his intention to impose this limitation which is included in Part III of the bill?

Mr. Williams: Yes, he did. Mr. Turner was there, as well as Mr. Lockwod of Levers, and myself representing the Soap and Detergent Association, and Mr. Greene's opening remarks, before we got down to any discussion at all were: Gentlemen, before we start the discussion I should tell you that a decision has been made that as of August 1st you will reduce the phosphorus content of your detergents to 20 per cent P_2O_5 by weight. We were advised that that was to be his first regulation. However, that is a very far cry from knowing precisely what the law which Mr. Greene had in mind was to be. As soon as we did know exactly what legislation he had in mind, we immediately applied for the right to appear.

Senator Robichaud: You say that you immediately applied, but I understand that on April 21 the specific wording of the nutrient amendment was made known, and your application, from the information I have, was not made until May 6.

Mr. Williams: I shall have to check our dates, because that is not my understanding. I would have to check our dates, because that is not my understanding, which is that we required the right to appear as soon as we became aware of what Part III of the Canada Water Act was to contain, including the research, investigation, storage, pick-up and so forth—I would have to go back to my files to find the exact date.

Senator Robichaud: The record shows that the specific wordings of the amendments were introduced on April 21. The record also shows that your application to appear before the committee was made on May 6.

The Chairman: I think Mr. Turner wants to add to this.

Mr. Turner: Perhaps I could explain that at least in the chronology of what happened in our company, Mr. Senator, I believe you are accurate in stating the dates that you did.

However, this amendment, once we received it, needed further consideration and study by us, which we then commenced. The point was that as of April 22 it was our impression that the House of Commons committee was continuing to debate parts of the Canada Water Act exclusive of the amendment.

In a week's time, or a little over that, we learned that specifically the amendment was to be discussed and debated in the committee. As soon as we did learn that, which was on May 5, 1970, we sent a telegram requesting an appearance. For other reasons that was not able to be done.

We then submitted a written brief to the committee and each member of the committee on May 7. I believe that its receipt was made a matter of committee record by Mr. Mahoney.

Senator Robichaud: If you were able in one day of 24 hours to submit a brief, you must have known and been studying the effect of this amendment which was introduced on April 21.

Senator Flynn: It would not receive the same publicity as an act published several months before.

This Part III, after all, is a bill in itself. It was published on April 21. I do not see why we should be critical of them not having been able to appear before the committee of the other place.

The Chairman: I do not think that we should start a dialogue between members of the committee at this stage.

Senator Flynn: Well, why not?

The Chairman: Because I so rule.

Senator Flynn: After all, they are here.

The Chairman: They are here to answer questions and this is part of the record. We need to hear the whole story, because these people have not been heard by the House of Commons committee and we want to know why.

Mr. Williams: Senator Robichaud, Mr. Krumrei has reminded me that in fact he and I came up to Ottawa to speak with Mr. Hymmen, who was the vice chairman of that committee and one or two other members of the House of Commons on April 29.

At that time we voiced our verbal request, including a request to Mr. Hymmen, that we should be invited to appear before that committee.

We were not in fact so invited.

Senator Cameron: Have any of the witnesses any information with respect to action by the Swedish Government with respect to NTA which has taken place in Sweden in the last two weeks?

Mr. Turner: Yes, we do.

Mr. Lillico: I have a Telex from one of our people who is in Sweden at the moment covering this topic. It is dated 17—6—70, from one of our ERCO people, Mr. Cale in Sweden, directed to me:

> Mr. Beauvang, Air and Water Research Lab, has personally given to me the following statement and has approved it word for word in fact he wrote most of it himself.
>
> Quote: No agreement will presumably be reached for general use of NTA throughout Sweden until the problems related to the assumed stability of certain metal chelates have been elucidated e.g. by proper tests. A programme for conducting such tests is being made just now. Unquote
>
> There have been a number of reports in the daily press following the June 2nd meeting of the Nature Conservancy Council. Most of these overemphasize the cancer scare but the following two are more factual. Dagens Nyheter—Daily News—The leading Swedish daily June 3, 1970—headline: Sunlight Will Stop NTA Detergent.
>
> *Story*:
>
> Because of report from USA that NTA might cause cancer the Nature Conservancy Office (NCO) have decided not to recommend NTA detergents. Swedish scientists have confirmed that there is a sound basis for the warning even though it is only theory for the time being said Valfrid Poulsson, Chief of NCO.
>
> Rolf Lindman, Sunlight Chief, said that Sunlight had been waiting for approval from NCO to introduce NCA detergents. Because of NCO decision Sunlight will not now introduce NTA.
>
> Same paper same date—headline: NTA Detergents Being Investigated Because of Cancer Risk.
>
> *Story*:
>
> NCO cannot recommend NTA detergents but say that more work has to be done before a statement can be given.
>
> Valfrid Poulsson said—Quote: Their decision does not mean that they are warning the people against the NTA and they are not the people to decide on whether other substitutes such as citrates or NTA should be used. Also when the Swedish manufacturers have agreed with the NCO on the reduction of phosphates and which substitute is to be used there will still be the problem of controlling outside manufacturers. P and G have 10 per cent and are not in the agreement of the Swedish manufacturers.
>
> Already last year phosphate was lowered in detergents and such rapid progress has been made in the methods of sewage treatment since the campaign against water pollution was started. More treatment works have been built to handle this problem and within 3 years 40 per cent of the population will be connected to treatment works with 90 per cent reduction of phosphates. Unquote.

There are a few other words, which I do not think are applicable.

Mr. Krumrei: The Swedish people have a task force in the United States now. I believe they came on June 8 to investigate and to talk with Dr. Epstein and others concerning the safety of NTA.

We are making available to that group of people the same information we have made available to Dr. Epstein and others so that they can consider it when they return to Sweden.

Mr. Williams: We have a summary of this human safety data in the submissions which the senators have.

Senator Cameron: My next question refers to a slightly different subject. However, it is the kind of thing which has a lot of political implications.

Do any of the witnesses have any idea of how many commercial or public washing machines are produced in Canada?

Secondly, how many household dishwashing machines are produced in Canada?

I know of many to my own knowledge and I know of them in institutions. In view of the statements made by the witnesses this morning that the soap alternatives will not work in these machines, what will the answer be?

Mr. Williams: In Canada virtually every home has a washing machine, of course, as they do in the United States. Our best estimate is that something over two-thirds, as I recall, of homes in Canada have an automatic washing machine of one kind or another.

I have to agree with Mr. Krumrei and the other scientists here that these machines have been designed in the closest co-operation between our industry on the one hand and the appliance industry on the other. Those machines are, in fact, designed for use with detergents and not with soap products, so if there were to be a massive reduction in phosphates the machines would not work very well, they would not get the clothes clean. If you actually made the people use soap, then it is our opinion the machine would not work at all, because they have all kinds of little valves in them, all of which depend upon certain pressures of the suds, the water and so on. If you start to get a very heavy film, which you do get with soap products, the whole mechanism would be disturbed very easily.

The Chairman: We understand that the Swedes have more or less solved this technical problem, but with a new type of washing machine.

Mr. Williams: That is correct. The whole Swedish method of washing clothes is totally different. I happen to have spent the best part of a year running our business in Scandinavia, in 1963. I became fully acquainted, therefore, with Swedish laundry methods, both in their apartment blocks, their private homes and of course in their industries. They have an absolutely totally different way of doing it. They use much less product than we use; they use a much longer washing cycle. In fact, it may interest you to know that in a large apartment block they have in the basement a large washing machine, and each apartment dweller is given a time in a month, once a month, when that machine becomes available to her and her family, and only her and her family. I have actually sat and watched a Swedish woman at 2 o'clock in the morning while she started her laundry, and finished it just after midday. It is a vastly different system.

Senator Cameron: The reason I asked the question is that if it is a fact that these thousands of machines will not work—and I am thinking of dishwashers in institutions such as I run myself, where there are thousands of dishes going through every day, in every hotel and every other institution of this kind, including hospitals—if there is not a satisfactory substitute by, say, August 1, which is impossible, or by 1972, this becomes a political question, and any government that would narrow the time factor that much will be in trouble. I may be completely wrong.

The Chairman: I think that we should be clear on the record, because I am beginning to be confused myself about this issue. I understood from previous discussions that there would be no real problem with the first objective, which will be set in the regulations by August 1.

Senator Cameron: That is 20 per cent.

The Chairman: You anticipate real trouble as we reach the total elimination, or a further substantial elimination of phosphates. I think we should clear that up.

Mr. Krumrei: If we are talking about laundry detergents, that is a perfectly correct statement. If we are talking about dishwashing machines, however, we do not have a replacement for phosphates for automatic dishwashing products. We cannot use NTA in there; it just does not work. This is a very critical problem and why we feel a review is necessary before any regulations are promulgated. You are quite right on that, sir, we do not know how to replace phosphates in a dishwashing product, either for commercial

use or home use, and without phosphates they will not work properly.

Mr. Williams: What Mr. Krumrei says about automatic dishwashers, whether they be used in institutions or in homes, is correct. I would not wish to leave the impression, however, that the reduction to 20 per cent P_2O_5 as of August 1 will not result in some downgrading in the performance of the detergents used for washing clothes and in hospitals for bedlinen, and so on. That is not true. This reduction to thirty-five per cent tripolyphosphate, or 20 per cent P_2O_5 until we can get adequate supplies of NTA to replace that missing phosphate to the 25 per cent level we are talking about, means that our industry's products will not be as good as of August 1 as they are today. I must make that clear, and any further reduction of phosphates...

The Chairman: You will have to change your slogan—White is White.

Mr. Williams: I think we probably will.

Mr. A. T. Davidson, Assistant Deputy Minister (Water), Department of Energy, Mines and Resources: The proposal at the moment is not to control dishwashing detergents as of August 1 because of the problem of replacement mentioned:

> and secondly because of the problem in Canada it is a very minor contributor to phosphates.

The Chairman: I might add at this stage that Mr. Davidson is Assistant Deputy Minister in the Department of Energy, Mines and Resources, in charge of water services.

Senator Cameron: This is the first time I have heard that. It does not appear anywhere in the record so far.

Senator Sullivan: Nowhere.

The Chairman: This has not been made public yet.

Mr. Davidson: No, sir, because it would be spelled out in the regulations, as you know, and the intention is that the regulations will have to do with laundry detergents. That is for the first regulation anyway in August; that is the intention at the official level.

The Chairman: So that this would remove at least part of that aspect of the difficulty.

Mr. Krumrei: Yes, if the intention is carried out.

Senator McGrand: NTA is almost new to me. What is the source of NTA? It is organic, is it not? How long has it been in use in any form? Does it break down readily when exposed to the elements? Have we had any experience with its effect on ecology?

Mr. Krumrei: It is an organic material. It is a new chemical. It is made from raw materials that are organic in nature. We have been using it in the United States, and I think it has been used in Canada for probably 15 years or so in boiler treat water, to soften water being used in boilers. It has been used in detergents since 1966 in the United States, and its use has been increasing since then. We have quite a bit of work on the environmental safety of NTA which is appendix No. 2 in the folder we supplied to you. Specifically on the degradation of NTA, there is quite a bit about it on pages 3, 4 and 6 and it does degrade. The report discusses work we have done on septic tank degradation; we have done degradation work in full scale municipal sewage treatment plants; we have looked at heavy metals and so on that have been talked about here; it does degrade, and degrades rapidly. This is spelled out for you, honourable senators, in this appendix, and rather than take the time to go through it I would just like to refer you to it.

The Chairman: Are you satisfied with that answer, Senator McGrand?

Senator McGrand: Yes.

Senator Fournier (De Lanaudière): I noticed this morning that most of these gentlemen mentioned that they were hoping for the institution of a board of revision, or some sort of court of appeal. Yesterday morning I put that question to Mr. Davidson and received an answer. I would like Mr. Davidson to repeat the answer to those appearing before us today, and then we can ask them if they are satisfied.

The Chairman: Do you recall your answer, Mr. Davidson?

Mr. Davidson: Mr. Chairman, I think I said that under section 26 of the bill there is provision for advisory committees to the minister, and under that provision the minister might set up advisory scientific committees on any aspect of the bill, which he might care to do under this aspect. I think that is what I said yesterday.

The Chairman: But this would be only on his own initiative?

Mr. Davidson: Yes, it would, sir.

The Chairman: It is not compulsory in the bill?

Mr. Davidson: No.

Senator Martin: Perhaps I might intervene. The intention is that the minister will be here; he is at a Cabinet meeting now. He could be given the opportunity then of making a declaration in respect of his intentions under section 26 of the bill. I should like to ask Mr. Turner whether it is not a fact that there is now a good cleaning agent that has neither phosphates or NTA?

Mr. Turner: A powdered laundry detergent, sir?

Senator Martin: Yes.

Mr. Turner: We are doing our level best, as many of these overnight products come out, to assess them in our laboratories. I can only tell you that at this point in time that we have not yet found any product that meets the quality standards which we feel are necessary. That does not say that there may be one some place we have not yet analysed. However, we have not found it if there is one.

Senator Martin: I do not want to mention the name of the company, as I do not think these committees should do that, but I am advised by the department that there is such an agent.

Mr. Turner: If we have not examined that one or at some time you could make the specific product known to us, we will immediately do so. We are sincerely interested in examining the formulas of these new products to determine both their safety in terms of the ecology and what is known about the elements therein as well as their washing performance characteristics.

Mr. Williams: We, too, feel the same way. There have been something of the order of 16 or 17 of these products claiming to either no phosphates or very low phosphates content. You have a tremendous task here, because it is one thing to examine from a cleaning point of view in your laboratories and your home laundries and quite another kettle of fish to examine them from an ecological safety point of view.

As apparently Colgate has done, we have also examined most of these products. We have examined at least 14 out of 17, which we have been confronted with. We have not found one which by our standards will do a satisfactory cleaning job on ordinary fabrics or clothes around the ordinary home. As Mr. Turner has said, if there is one we would be very pleased to know about it.

The Chairman: We have another comment here.

Mr. Lillico: I was going to say that we of course do the same type of testing with the different detergents and we have found that the phosphate-free ones or the very low phosphate ones certainly do not come up to the standards of current detergents. In addition, as a general rule, they seem to be more expensive.

Senator Belisle: I do not think it is fair for some of the members of this committee to assume that the minister will have good intentions, as Mr. Davidson and the honourable Leader have said, because I recall reading the bill in the beginning.

The Chairman: I am sorry, Senator Belisle, this is not what Senator Martin said. He said, in fact, that a minister would be available later on.

Senator Belisle: I have read the first part of Bill 144 and the third section was not there, as it appears now. Then I read most of the evidence given in the committee and they never referred to this last information we had about the automatic washing machines.

I was very critical of the bill on Tuesday night. If I had known this, I would have spoken and kept the Senate for two hours. I feel this is one reason why the bill should not be accepted.

The Chairman: I will come back to you, Senator Belisle.

Senator Phillips (Prince): I would like to ask Mr. Davidson what method, if any, the department uses in assessing the value of the detergent.

Senator Sullivan: And who.

Senator Phillips (Prince): Yes.

Mr. Davidson: We are not assessing detergents as such either in the cleaning capacity or respecting individual detergents on the environment. What we are doing a study on, and have been doing in the past few years, is the effect of phosphates in waters and the environment of waters.

Senator Phillips (Prince): Senator Martin just stated that he was advised by the department that the detergents he referred to existed. How can you advise him if you do not do any testing?

The Chairman: He did not say the department.

Senator Cameron: There has been a lot of publicity which has appeared in the press within the last two months about some new product Dr. Jones of the University of Toronto has developed. What information do you have on that? This was supposed to be a substitute.

Mr. Turner: Honourable senators, since we first read of Dr. Jones' report of discovery in the newspapers we have been in constant verbal and written communication with him, attempting to reach an agreement so that he will supply us with this formula so that we can evaluate it. Naturally, knowing nothing about it we were powerless to evaluate it.

The general counsel can speak more about this, but I believe recently we finally concluded the arrangements whereby we will submit that formula to an outside independent laboratory under certain conditions which I will not bore you with. The point is that we have been as aggressive as we know how, pursuing an evaluation of that formula while protecting Professor Jones' legal and patent rights.

Mr. R. F. Bonner, Vice-President and General Counsel, Colgate-Palmolive Limited: I concur in every comment Mr. Turner has made. We are actively involved with Dr. Jones and his group. We are currently involved in the final stages of completing a contract which will result in an evaluation of his product. At this stage of the game we are undertaking to evaluate the product through an independent body.

Mr. Krumrei: We also have tried to work with Professor Jones.

The Chairman: He is a popular man.

Mr. Krumrei: When you make statements like that you become popular. He has publicly indicated that his material is a mixture of NTA and something else and the unknown ingredient is still unknown. We have been unable to satisfactorily conclude an agreement to evaluate his material in our laboratories, but we are still negotiating. Apparently Colgate has gotten a little bit further than we have, but we are interested in it.

Senator Phillips (Prince): If I may return to my question beforehand. Senator Martin has now returned and he advises me that he was informed of the detergent by the department.

The Chairman: That is not what he said before.

Senator Phillips (Prince): I would like to know the basis of that advice.

The Chairman: By the Department of Energy, Mines and Resources?

Senator Martin: By an official in the department.

Mr. Davidson: I am sorry, but I did not hear the question.

The Chairman: By an official in the Department of Energy, Mines and Resources.

Mr. Davidson: We receive a great deal of information from various companies and from the journals and so on on different products. We have mentioned such a product to the honourable senator, but that is as far as we have gone.

Senator Phillips (Prince): You have done not testing or research?

Mr. Davidson: No, we have not.

Senator Cameron: Mr. Chairman, I have some sympathy for the position Mr. Davidson is in. The statement he has just made gives me some concern. He said, "We are not considering detergents as such. We are investigating the water." What happens to the water? I think the weakness of this particular presentation is that you cannot separate these two. If the effects of legislation to clean up the water is going to have a very serious effect on housewives, hospitals and institutions I think this must be taken into consideration.

I wonder if Mr. Davidson would like to elaborate on that a little bit. There is a very serious implication there. You are separating under this act—in other words, you are only concerned with cleaning up the water. We are all in favour of that, every one of us here. But, if in clearing up the water you even temporarily disrupt households and institutions, then I think it is a serious matter. It may be there is a way of taking care of that and still meeting with the objections.

The Chairman: Are there any comments?

Mr. Davidson: Mr. Chairman, I think it is a point that is relevant. In the development of regulations, we have to consider both sides of the issue. In the proposal for the regulations for August 1, of course this has been taken into account. It is believed that it is possible to achieve this production, that the companies can achieve it without a major problem. It is true that, by accepting a position for 1972 we are going to have to work very closely with industry, to determine at what stage regulations can be put into effect, when it is practical—when it is practical in relation to the substitutes that the industry may have developed. And of ocurse we will have to collaborate closely to make sure that it is practical, that it is workable.

The Chairman: Has it been established that NTA is a nutrient?

Mr. Davidson: Yes, it has been established, it has nitrogen in it, which is a nutrient, under certain circumstances.

Mr. Williams: I would like, Senator Cameron—and I have had many discussions with Mr. Davidson and Dr. Prince and Dr. Tinney—to say that the point you made is one that alarms me very much now.

I know we are told that there will be consultations with the industry before further regulations, further reductions of phosphate come into effect, but I frankly confess—without wishing to be too cynical—that I would prefer it a lot better if, before the original regulations proposing to cut us down to 20 per cent of P_2O_5, there had been discussions with the industry so that we could have told the minister and his staff what, in our judgment, would be the effects of that first reduction. No such consultations did in fact take place.

That is why today we are asking, just to make sure, because there can be a conflict of interest here between, on the one hand, the concepts of environmental quality which are of great concern to all of us as well as to the minister and his staff, and the interests of public health, public hygiene and the general public welfare over all.

It is my contention that, as an industry—we know our industry, we have been in business for 132 years, we have learned an awful lot about the kind of product we make. What I am saying is that the first regulation was put into effect—it has not gone into effect but we were told about it—without any consultation whatever. And I am concerned that we might be facing the same problem in the future and again regulations which might look splendid to the Energy, Mines and Resources people but might in fact have very dangerous consequences, in our judgment and in our experience, for the rest of the Canadian population.

The Chairman: I think we had better try to put the record straight on this issue. Is it not true that you had met with the minister on November 6, 1969?

Mr. Williams: That is correct.

The Chairman: And this was not raised at all during the meeting.

Mr. Williams: No, sir, not any specific—Mr. Greene expressed at that time his intention to reduced phosphates in detergents and ultimately get rid of them but at that time I do not think he had any specific program in mind.

At our meeting on February 24, however, by then it had been determined in his mind—presumably with the help of his professional staff—and as I say, his opening statement was that a decision has been made that as of August 1st you will reduce your detergent content to 20 per cent P_2O_5.

I am only saying that that is something we will accept, of course. It is a regulation, and we will conform to it. All I can say is that there was no consultation. I think Mr. Davidson will bear me out in that.

Mr. Davidson: I should say, Mr. Chairman, that the minister did say and reinforced it several times at that meeting and at later meetings that as regards further regulations he was most anxious to consult continually with the industry.

Mr. Williams: That is correct, he did say that.

The Chairman: But when all this started, these negotiations, you stated this morning you regretted that you were not allowed to take voluntary action and that you regretted the fact that Parliament intervened and imposed regulations on your industry. Did you at any time offer to take voluntary action on this?

Mr. Williams: I believe—I do not have it here but I would be very happy to make available to you sir, and to this committee—two statements which were made, one on

November 7 or 9, whichever it was, our first meeting . . .

The Chairman: The sixth.

Mr. Williams: The subsequent meeting on February 24. Last November we were in no position to make any kind of commitment—of any kind. We just did not have the technical knowledge. As soon as we did have the technical knowledge, as soon as we knew, both mechanically as well as formulation-wise, how to replace our phosphates with NTA, we immediately—and I have the letter, it is in your file there, of March 5,—we gave an undertaking, as my parent company had done in the United States, that we were committed to a total phosphate replacement program.

Mr. Turner: Mr. Chairman, in further elaboration of that, in a letter to the Hon. Mr. Greene on March 6, 1970, which I believe was tabled in the previous discussion that took place in the house, this company, that is Colgate-Palmolive, proposed a voluntary reduction to 35 per cent TPP not later than January 1, 1971.

Senator Phillips (Prince): Following your question, Mr. Chairman, I believe you received the answer that the NTA has been established as a nutrient. Are there any proposed regulations regarding the use of NTA?

Mr. Davidson: No, sir. At this time, there are not. The indications that we have at the present time, from the knowledge that we have, is favourable towards NTA. The Government of course takes no position as to whether it is a suitable substitute or no, but it is believed that the environmental effects of NTA should be minimal. That is our position, so at the present time we certainly do not anticipate any regulations which would control the introduction of NTA.

The Chairman: If I understand the situation well, even if you find that NTA does not have any negative effects on the environment and on algae production, then the Minister of Health and Welfare may find that it is then just for human life.

Mr. Davidson: I think that is possible.

The Chairman: So we will have to move from one department to another to get the total story.

Mr. Turner: I would like to comment briefly that this is a major issue of concern to my company, that we will be rushed into—as we say, we are trying our very best and spending a considerable amount of money and time, as much as we are capable of doing, to find a substitute. We are most concerned that we will be rushed into a replacement such as NTA and then, a year or two years from now, find we are facing the same situation, or it may be even worse, all over again. This is sincerely of deep concern to us, both from the effect on the ecology as well as the safety of humans. We have got to be sure we know what we are doing, before we infuse massive amounts of some such substitute ingredient.

Mr. Krumrei: Mr. Chairman to answer your question about the effect on the environment, if all products in Canada were to use the same level of NTA that we are talking about moving to by 1972, it would increase the amount of nitrogen going into water by less than 1 per cent. This is in contrast to the phosphorus contribution that detergents are alleged to make, of up to 25, 30 or 40 per cent. So we are talking about a completely different order of magnitude. In addition, most algae, or a lot of algae, have the ability to fix nitrogen from the air, just like a lot of plants do, so that nitrogen seems to be readily available and is not a factor. We share Colgate's concern, however, on going too rapidly in very large quantities and this is why we are so interested in performing the studies that are going on this summer, and why our company is moving in stepwise progression, so that we are not going to get into a position that we will harm the environment or people.

Senator Cameron: Mr. Chairman, I think the statement has been made that the amount of phosphates being injected into the lakes from Canadian sources is about 5 per cent and the amount from U.S. sources is about 95 per cent. I believe it is also true that the United States at the moment has no legislation comparable to ours to control the situation. But what is the effect if we on August 1, or January 31, 1972, bring in legislation to ban all phosphates and the United States does not do anything? What is the effect on the lakes then? Maybe the United States will take action within a year, but the point I am trying to make is this: would it not be better to have concomitant action on this? Are we in this rush to do it? If it is necessary to abolish these because they are detrimental, fine; we are all for that. But for us to do this now and then have the Americans continue as they are going for a year, or for whatever time it may take, does not make sense.

The Chairman: Well, there are some qualifications to this, as we have heard yesterday morning. It does not make sense so far as Lake Erie is concerned.

Mr. Krumrei: You are quite right, senator. There is no legislation contemplated in the United States at this point in time. Senator Muskie had his hearings.

The Chairman: Have those hearings finished now, by the way?

Mr. Krumrei: These hearings are finished now—they finished last week. All companies involved had an opportunity to talk about the ramifications. But the report is not written yet and will not be written for several months. Of course what will happen in election year is anybody's guess. But at this point in time Senator Muskie has indicated his great concern that there should be total removal of nutrients through sewage treatments. Now, I am trying to read somebody's mind, and I would not want to be specific. But he has indicated this publicly; he has introduced legislation to get total removal of nutrients by proper sewage treatment and speed up the process in the United States. Congressman Blatnick from Minnesota is the corresponding gentleman in the House of Representatives and has the same responsibility as Senator Muskie. He has indicated his concern about the total nutrient program and the fact that just the removal of phosphates from detergents is probably not going to be a major factor. Therefore he urges that we get the job done properly. So this is the direction of their thinking, but I cannot tell you what is going to happen, senator, obviously.

Senator Smith: Mr. Chairman, Mr. Davidson stated a few moments ago that it is not the intention to regulate the use of phosphates for use in dishwashing machines. My question is this; how can you restrict the use of a manufactured product such as a detergent containing a high amount of phosphates only to dishwashers when the next moment the housewife can turn around and dump it in the washing machine. Is there an answer to that?

Mr. Davidson: I think the answer is that they are different products and one cannot be substituted for the other. You cannot use a laundry detergent in a dishwashing machine.

Mr. Krumrei: I misunderstood your question. Were you asking if you could use a dishwashing detergent in a laundry?

Senator Smith: Yes, that was my question.

Mr. Krumrei: Most dishwashing products have chlorine in them to aid the sterilization of dishes, and this could be harmful to the colour of fabrics and so forth, so most women are not likely to use the automatic dishwashing detergent for laundry.

Senator Thompson: I wonder if you could give us any idea of the cost of adapting sewage plants in order to remove nutrients? Is this going to be an enormous cost across the country?

Mr. Krumrei: I am not very qualified to answer that, senator, but the Ontario Water Resources Commission have done quite a bit of work on this. They have developed a process which we have talked to them about—and probably Mr. Davidson is more familiar with it than I am—which can be used with normal primary and secondary treatment plants. This is the lime treatment process which removes phosphates and other nutrients quite effectively. It does not require major capital investment; it requires some but not a major amount, and their feeling is that this is a pretty good process. Mr. Davidson, is that a correct statement?

Mr. Davidson: Yes. Mr. Bruce is here, and he is the Director of the Canada Centre for Inland Waters, and he took part in the I.J.C. study on the Great Lakes which came forth with some figures on the cost of treatment placements on the Great Lakes.

Mr. J. P. Bruce, Director, Canada Centre for Inland Waters: Mr. Chairman and senators, the total cost as proposed in the International Joint Commission Report for nutrient removal from the Great Lakes for Canada—I am sorry, I do not really have the costs here—but the total costs were not enormous. If I recall correctly, they were of the order of under $100 million for the Canadian side for nutrient removal.

The Chairman: I think we have had inflation since Mr. C. D. Howe's famous pronouncement in the house.

Mr. Bruce: The total cost of the whole program involved in all kinds of sewage treatment was very many times that. It is in relation to that total cost that I suggest the cost of nutrient removal is not that large. However, the thing that the report did look into was the cost of nutrient removal with and without phosphates and detergents, and the

main factor in nutrient removal is an increase in the operating cost, because you have to add additional chemicals to the plant, either lime or alum or ferric compounds, and the additional cost of nutrient removal on an annual basis is likely to be fairly large if you leave the phosphates in the detergents. That is over the cost of nutrient removal if you take the phosphates out. This would amount to about $5 million a year additional cost.

Mr. Williams: I think I am right in saying that the I.J.C. report in arriving at its estimates of what the cost would be, did not, to the best of my knowledge, take account of this extraordinarily effective economical process which has been developed by O.W.R.C. Also, those figures, in my judgment, which appear in the I.J.C. report—which, after all, was written last year—do not, in my opinion, give a true up-to-date picture of the economics of nutrient removal in Canada following on the really remarkable work which the O.W.R.C. has done and which had not at that time been published, because their results were not in.

Mr. G. D. McGilvery, Manager, Research Department, Electrical Reduction Company of Canada Ltd.: Mr. Chairman, I think I would like to comment on this. The figures presented in the I.J.C. report, I believe, lump the whole of the United States and Canada together and voted 75 per cent input of the phosphate from detergent sources, whereas Canada's was only 50 per cent. The figures we have developed in talks with the O.W.R.C. are considerably lower than this and in fact the cost of incremental removal of phosphates is very little indeed—not very much more than the initial cost of installing the equipment and setting up to remove any phosphate whatever.

The Chairman: I think before we go on on this, I would wish to welcome to this meeting the honourable Mr. J. J. Greene who, as everybody knows, is the Minister of Energy, Mines and Resources.

Mr. Bruce: Mr. Chairman, I think the I.J.C. report did take into account the difference in the detergent phosphate input in Canada and in the United States.

The question of the total cost of the lime treatment process, which the Ontario Water Resources Commission has been experimenting with, are really not well understood or well known yet because the sludge removal costs have not yet been fully estimated.

There was a recent report by James F. Maclaren and Associates, who did a study of the extra cost to the City of Ottawa for adding nutrient removal at the time of expansion of the primary treatment plant in Ottawa here. The conclusion of their report is that the cost of the primary plant expansion would be about doubled if provision was made for nutrient removal at the treatment plant here in Ottawa. That was both capital costs and operating costs, using the lime treatment process. The process upon which the cost figures are based in the I.J.C. report is an alum treatment process, which has been in use in Cincinnati for some time.

Senator Cameron: While the minister is here—and I am delighted that he is—let us assume that everyone agrees it is a good idea to get rid of the phosphates that are increasing eutrophication of the lakes. That is one thing. The second thing, forgetting the amount of money it would cost to put in the sewage treatment plants necessary to remove it completely—this can be done. Thirdly, what is the time factor involved? Because it seems to me one of the critical factors in this legislation is the time factor, the deadlines. How long would it take to remove all these detrimental elements by putting in the proper sewage treatment plants, which apparently is the answer? Has anybody got that answer? That is, leaving the money factor out—and this is something it is hard to do.

Mr. Davidson: I think, as Senator Cameron has suggested, it is both a factor of money and time. Certainly, the tertiary treatment plants could be built within a relatively short number of years, a number of years, if there were money available to build them.

Senator Cameron: Would you hazard a guess at how many years?

Mr. Davidson: The I.J.C. Advisory Board considered this and felt that it might be reasonable to get a good percentage of removal of nutrients through treatment plants within five years.

Senator Cameron: The legislation has a deadline of January 1, 1972. This is the point that is bothering me.

Mr. Davidson: This was the reason that the I.J.C. Advisory Board recommended the control of phosphates through detergents, because they felt the situation was crucial enough, particularly on Lake Erie, that the time factor involved in putting in tertiary

treatment plants was too long, and there was the danger of an irreversible stage in the eutrophication that could not be recovered, and if we waited five, six, seven or eight years to get sufficient treatment in it would be too late. This is the reason they strongly recommended control in detergents as a shorter-term answer.

The Chairman: Are there any other questions? I do not think that we will be able to finish at this time. I understand our Conservative friends have a caucus which started at 12 noon, and they are apparently anxious to attend that caucus.

I do not know what is happening at the caucus, but the Leader of the Opposition (Hon. Mr. Flynn) has just come in. Senator Flynn, apparently someone has expressed a wish to attend your caucus, which has been meeting since 12 noon. I think that we will want to ask a few questions of the minister later. He tells me that he will not be available to the committee before 5 o'clock this afternoon, but that he would be available at that time. I think we could finish with the minister in about an hour this afternoon, from 5 to 6 p.m. Is this agreeable?

Senator Martin: I want to point out the problem we have in the Senate. This would mean changing our plans as to when we adjourn. Perhaps this would mean staying here on Saturday in order to finish. I hope we could go on this afternoon. Now, you have not permission to sit while the house is sitting, but that could be given.

The Chairman: Unfortunately, the minister is not available until 5 p.m.

Senator Martin: I know, but there are other witnesses who could go on.

The Chairman: I do not know, but I do not think there are too many questions left.

Senator Martin: Having in mind the intention of the other place, and of Parliament, to adjourn on the 26th, and the legislation ahead of us, one has to take into account the problem facing us. The only point of my intervention now is simply to point out that there are problems here in not using every available moment that we have.

Senator Flynn: We could sit on Monday.

Senator Martin: Even that might not help us, because Wednesday is a statutory holiday.

Senator Flynn: That is why we should sit on Monday.

Senator Martin: We could sit on Monday, but I think we will have to sit much more than Monday. The only point in raising this is trying to alert you as Chairman of the Committee.

The Chairman: I was aware of this, Senator Martin, but unfortunately I do not think we could usefully meet this afternoon earlier than 5, because I understand there are no more questions to be put to these witnesses.

Senator Flynn: We want to hear the minister on the proposals.

Senator Martin: He is here now.

The Chairman: But the Conservative senators want to go.

Senator Sullivan: We can wait.

Hon. J. J. Greene, Minister of Energy, Mines and Resources: Mr. Chairman, if there are some questions honourable senators wish to ask me at this time, I am certainly available from now until 1 o'clock, if that is satisfactory to you, honourable senators.

Hon. Senators: Agreed.

Senator Phillips (Prince): Probably there are many questions we want to ask the minister, and if we could have him with us for a longer time at 5 o'clock, I would be very much in favour of your suggestion, Mr. Chairman.

The Chairman: Perhaps we can deal with this in half an hour. We have half an hour now, and this would perhaps enable us to report the bill this afternoon, which would meet Senator Martin's wish.

Senator Martin: That is right.

The Chairman: So, let us try to finish, since I think Senator Flynn is agreeable to this timetable.

Senator Phillips (Prince): I am rather disturbed by your obvious intention to report the bill this afternoon. I fail to see the urgency, because it was kicked around in the House of Commons from November 20 to June 9. I do not see why we have to close it up this afternoon. They had 7½ months over there. Surely, we can have 72 hours here?

The Chairman: Well, I said that we wish to dispose of it as soon as possible; that is all. I

am not trying to limit the discussion in any way. If we can, I do not see why we should not try to conclude our consideration today.

Senator Thompson: I think one of the points that has come up—and I am sure we would be interested to hear the minister's remarks on this—is the approach of a review committee. It has been pointed out that there is an advisory committee. There was some concern expressed that perhaps the advisory committee would not be meeting, and that there would not be the voice of the industry concerned with regulations; that they would not be able to examine the regulations before they are put into force. I wonder if we could ask the minister for an explanation in connection with that?

Hon. Mr. Greene: Certainly, the question of the advisory committee has been recently brought up and considered by us.

Under section 26 of the Act, as I think you, Mr. Chairman, and honourable senators are aware, there is the ability to appoint an advisory committee. It is my recollection that there was really not too much discussion in the house or in committee on this matter of the advisory committee, but I would be very interested to know if honourable senators feel this is important.

That is certainly why the section was put in there. I have every intention, and I am sure the Government would have every intention, of appointing an advisory committee to ensure that the advice of an outside group was considered before proposed regulations were put into effect. I do not know whether that outside group would necessarily be an industry group. There might possibly be some representations from industry. Needless to day, industry would have an objective view, but it, of course, has a vested view as well. So, it may be that the advisory committee would be composed of academic people from universities, independent scientists and research people, and it might well have an in-put from industry as well.

I do not want to leave the impression that I think any in-put from the industry would be invalid, but this would not be a total industry advisory group. Certainly I have every intention of using section 26, and in fact an advisory group, to make sure that there is an outside look as well as an inside look at these things. That is the purpose of the section.

The Chairman: What would be the procedure that you envisage in the working of these advisory groups. Would they be allowed to hold public hearings?

Hon. Mr. Greene: That, I think, will have to be left fairly well to them. It seems to me that if public hearings are advantageous—well, I would look upon the advisory group largely as being in the scientific area. I think that the policy is fairly clear in the bill. We want to regulate through the prohibition section any nutrient which will be conducive to eutrophication. If there are questions such as whether a certain chemical or a certain component is a nutrient or not, and if there seemed to be some real question in this area of whether or not it was a nutrient, then probably outside advice on that scientific question as well as advice from our own officials in the traditional sense would be useful.

I do not think, Mr. Chairman, I have any sort of fixed view upon how the advisory committee should operate, but again we have not fully evolved the manner of its working. Certainly my thoughts would be that if they in their wisdom deemed that hearings on any particular issue would be beneficial, then I would have no objection.

The Chairman: But, of course, these advisory committees would have to receive terms of reference in which their powers would be defined. You would feel at this stage that among those powers will be the power to hold public hearings if they feel them necessary?

Hon. Mr. Greene: I would certainly have no objection to such a power, Mr. Chairman.

Senator Thompson: Mr. Chairman, I sense that the concern of the industry is that there could be regulations issued by the department without any consultation with the industry, and a discussion of the effect of such regulations on the industry.

The Chairman: Not only on the industry, but on the public in general. This committee is interested, of course, in hearing the point of view of the industry, but it is primarily interested in protecting the public.

Senator Thompson: I appreciate that, and I think the concern is that if there are regulations without consultation with the industry and the public—and this unfortunately has happened on occasion—they would be to the detriment of both the industry and the public.

Hon. Mr. Greene: Yes. I would think it would be very unlikely, because certainly on

the question of phosphates our officials have had consultations with the industry over some years, at some considerable length and in some considerable detail. The industry, in fact, was sufficiently co-operative that it invited me to send officials to plants in the United States. The officials of the department did go there, so there was certainly consultation. It would be a rash official who in this area would not consult, and if the advisory committee procedure is useful to that kind of consultation, then that is why it is in the bill.

I might point out to honourable senators that this bill is not like the Hazardous Products Act. Under the Hazardous Products Act there is provision for an appeal because there can be thousands of new products coming onto the market from day to day and from month to month, and to have them arbitrarily declared hazardous and thus proscribed without the right of appeal or review might be most invidious in any free system of government. On the other hand, there are very few nutrients. New nutrients are not evolved every day. Scientists can advise you better than I on the nutrients that are known and used, and those that are potential today, but I understand that they are largely phosphate and nitrate nutrients. There may be others, and I do not want to pontificate because I am not a scientist, but nutrients are not like new products generally of which there could be thousands. Of course, if something were declared a nutrient and was barred by us, and it were not a nutrient, then any affected party could appeal to the courts and say: "This is not a nutrient," and establish that fact before the courts by means of scientific evidence. They are not barred from remedy.

Senator Martin: They are not barred under this bill?

Hon. Mr. Greene: Yes.

Senator Martin: But under the Hazardous Products Act, they are?

Hon. Mr. Greene: Yes, because there is no definition of what is a hazardous product, but there is a definition of what is a nutrient in this bill.

The Chairman: The question of what is and what is not a nutrient is a rather limited aspect. There is the much wider aspect of the effect on the environment, and on human life, of the nutrients, and this is apparently—as we can see from the evidence we have heard—a very, very complex matter. This is a definite public interest because if we are to replace phosphates in massive quantities by NTA, for instance, then there are some experts who now believe that NTA might well be better for the environment than phosphates, but that it might be dangerous to human life. If that is so, then we would certainly not be improving the situation.

It seems to me that there should be an opportunity for the public to know what is going on, because they are vitally interested. All these machines are going into our homes, and the public itself is vitally interested in knowing what is going on. I do not think anybody in this room objects to the first set of regulations you are planning to issue and which will become effective on August 1, but there is some genuine worry, I think, about what will happen afterwards. Some of us are certainly interested in knowing more of the kind of procedure you have in mind with respect to the public airing of this very complex issue.

Hon. Mr. Greene: Mind you, Mr. Chairman, under this bill we do not license products.

The Chairman: No.

Hon. Mr. Greene: We do not say you can use a, b, c, d, or e. If some manufacturer were using some substance in a soap that was deleterious or poisonous or harmful, that would have nothing to do with us at all. That would come under the Food and Drugs Act. I am not too familiar with that act, but I am sure there must be procedures under the Food and Drugs Act for assuring the safety of products, and for assuring that people do not use products that are not safe. We are not telling manufacturers what they should use, but what they cannot use because we know it is—at least know is a bad word in science—on the preponderance of evidence the Government is satisfied that phosphates are harmful from the standpoint of nutrification. That is all we deal with.

Substitute products and their harm or potential harm in other areas would not come under this act, but under the Food and Drug Act or the Hazardous Products Act.

Senator Thompson: Could we ask the representatives of industry, in view of the minister's explanation of the advisory committee and the emphasis on consultation, if they have any feelings with respect to that statement?

Senator Robichaud: Before this question is answered, may I direct a question to the minister?

Did I understand you to say, Mr. Minister, that the members of this committee will be appointed from outside the public service?

Hon. Mr. Greene: That was my thought. I do not think I should state here that they all will be. It may be advisable to have someone from the O.W.R.C., who are doing extremely good work. However, obviously an advisory committee would be from outside the regular channel of advice which a minister receives, namely his in-house scientits. It would be from outside that group.

Mr. Williams: Our concern, Mr. Chairman, as we have expressed it here this morning, and it is a very real concern, is that arbitrary regulations might be published to which we obviously would have to conform. However good those regulations might appear from an environmental standpoint, even if we assume that phosphates are a problem and, as I said earlier this morning, the scientific views on this are themselves certainly very divided, our concern arises from the fact that as we read Part III of Bill C-144 there is no provision of any kind that we can see which lays down that there will be review of those regulations before they are put into effect.

I am deeply concerned, not just alone as the head of our business, any more than I expect Mr. Turner's concern is alone because he is the head of Palmolive. I am deeply concerned from my knowledge of the soap industry at the serious effects that I believe such regulations could have, not only on home appliances, washing machines, dishwashers and so forth, but actually upon the health and welfare of the Canadian people.

I have referred to this in other talks. I happen to be a trustee of the Toronto General Hospital. At our meetings, which usually take place once a month, the head of the medical advisory board appears as an ex officio member.

One thing he reports upon without fail is the interhospital cross infection. It is extremely important.

We have a very good record at the TGH. I gather it is very much better than it was 35 or 40 years ago. One of the reasons why it is better is because the cleaning materials which they have today to do their bed linen, to wash their walls and floors and to use in the operating theatres are of a very high detergent quality.

This is one of the reasons we are deeply disturbed. We are providers of products to institutions such as hospitals as well as to ordinary housewives.

All we ask is that this be a good bill, just as the minister wishes it to be a good bill. We cannot see how anything can be lost by allowing our technology to be used so that before the regulation becomes law the minister and his staff know exactly what they are getting.

Senator Cameron: In connection with the minister's statement that it is different to the Hazardous Products Act, I do not think the principle is different at all, whether it is ten or one thousand products. There are many products under the Hazardous Products Act; under this there are only a few, but the principle is the same, that they can be harmful.

I would like to ask the minister if, in view of the fact that there is a fear on the part of many people, which I share, that departmental committees make regulations and these regulations do not become known until someone gets hurt and starts complaining about them, would it not be better from the Government's standpoint to have the kind of amendment to the bill that is provided in clause 9 of Bill S-26, the board of appeal?

That takes the onus off the Government completely and sets up specific provisions under which any person affected can make his presentation.

My view anyway is that it is a much stronger position for the Government than to have a departmental advisory committee. Even though you appoint people from the outside, it is still a departmental advisory committee.

Senator Martin: I should point out to you, Mr. Greene that, as you probably know, under the Hazardous Products Act the decision of the review board is no more than a recommendation. It does not have to be followed by the minister.

The important point, it seems to me, is that which Mr. Greene made, that in so far as health is concerned it is provided for under the Food and Drug Act. I have not heard Mr. Turner's reaction, but it seems to me from the assurances given by Mr. Greene of the intention on their part in Bill S-26, which I think is stronger than the provisions in the other act, that this should be a very satisfying assurance. It should enable both Government and industry to work together in meeting the

objectives of this bill, with its limitations, which is to attempt to do something about pollution.

I think that you had from the minister the kind of assurance that, might I say, in my long experience has great value and should be regarded in that light.

Mr. Turner: Certainly I would not in any way dispute, or imply that the minister would not carry on exactly as he said.

However, I do feel that a formal procedure in law takes account of varying situations and circumstances.

Senator Martin: Did you say in law?

Mr. Turner: Yes sir.

Senator Martin: Well, that is exactly what you have under this bill that you do not have under any other bill. In this bill there is a definition of the word nutrient. In the Hazardous Products Act there is not.

Consequently, if perchance there was not a recognition of your rights, you have the right to go into the courts for protection of them under this bill that you do not have under any other, such as the Food and Drug Act or the Hazardous Products Act.

Hon. Mr. Greene: We defined nutrient in order to ensure that anyone who felt they were offended would have the right of recourse to the courts.

Further, because of the fact that scientific knowledge in this as in any other area is not permanent, positive or eternal, we inserted section 26 so that we could have the benefit of inputs of scientific information from outside as well as inside.

I might say that the industry and our scientists may not always agree on phosphates, for instance I do not think that anyone, including the industry, could say they had not had ample and full, almost too full, consultation. As I think one honourable senator mentioned, we were at this for many, many months, and there was consultation before that. It may well be that the industry and government did not agree at the end of the consultation, and there may be some of the enactments proscribing phosphates that they do not agree with now. I am sure their opinions are valid and sincere. But consultation does not always mean agreement. As honourable senators know, sometimes you cannot achieve agreement.

Certainly I can put this right on the record. It certainly would be my intent that no substance would ever be barred as a nutrient under the act without the industry having full knowledge of the fact that we were contemplating prohibition, and with them having full opportunity to make their case and representations, and being heard, as to the ramifications of such proscription. I think it would be a very foolish government and a very ill-conceived regulatory body that in this field—because nutrients are not something on which you have to act in five minutes, like a hazardous product might be; it commences to be used, it is used for a long time and you see that after its use for X period of time it starts to cause eutrophication—with that kind of...

The Chairman: Was there full consultation before you announced your intentions, Mr. Minister?

Hon. Mr Greene: I announced my intentions, I think, back in November. There was the I.J.C. Advisory Board report, of course, which I think gave pretty clear notice to the industry that a very responsible and respectable group of scientists, who are specifically advisors to government, were going so to recommend. I believe it was published last September.

The industry have, I am sure, capable scientists of their own. They are pretty well able to take care of themselves in the field of communication, so they certainly had from then until the amendment to the bill was proposed, several months, to make their representations.

I think we understand the position of the industry fully, and appreciate their concern. It may well be, as I say, that they do not agree with the conclusions. And they may not agree with later conclusions. But surely our job is to acquire the best scientific advice we can and then act in the public weal, for the protection of the public and for the protection of our waters.

Senator Fergusson: May I ask whether the household appliance manufacturers will be represented on the advisory committee that can be set up under section 26? Apparently this is of great interest to people who use their appliances, and I think it is important to have their point of view.

Hon. Mr. Greene: That is a very good suggestion, senator, and I will certainly take it under advisement at the time of the appointment of the advisory committee.

Senator Martin: If you ever put senators on such a board, I will recommend Senator Fergusson.

Senator Phillips (Prince): Will the findings of the advisory committee be made public and tabled in Parliament?

Hon. Mr. Greene: That again will depend on its constitution. There might be different instances and different connotations. There might be times when you would want to have scientists able to advise on a confidential basis. You do not always want to put them under the Kleig lights. There are other times, I would think, when it would be more beneficial to have the recommendations of individual and collective scientists made public. I do not think I could give a categorical answer that in each case what the scientist said should be public, because you might thus preclude the advice of people who would only give confidential advice.

The Chairman: I think this is completely out of order, but I would like to ask a question of Senator Martin as Leader of the Senate. I think it is doubly out of order. I am wondering, as a result of the discussion we have had in the Senate for about three weeks on statutory instruments and regulations, whether it would be possible at some stage in the future for the Senate committee responsible for this to review the regulations that will be promulgated by the minister on this specific issue.

Senator Martin: I do not see any objection to that.

Hon. Mr. Greene: I do not see why not.

Senator Martin: As a matter of fact, yesterday the Minister of Justice appeared before the Standing Senate Committee on Legal and Constitutional Affairs pursuant to the statement of policy of the Government the day before by Mr. Macdonald, and almost all the recommendations of that committee have been accepted by the Government. Mr. Turner himself strongly urged that we set up, either alone or conjointly, or the other place alone, a body that would examine government regulations to see to what extent there was any violation of the authority given under the statute under which the regulation is made. I would think this was quite within our function.

The Chairman: You see, Mr. Minister, I understand your position and your limited responsibility as the minister in charge of the administration of this bill, but what worries me is that you will take some kind of negative action prohibiting the use of certain nutrients, but by doing so you will impose certain obligations on industry. Referring, for instance, to detergents, this will force them to change the formula of their product, and then nobody under this bill will have the opportunity to look at the impact of it—the economic impact, the impact on human health, or any other impact.

Your concern will be, it seems to me, very limited indeed, and this is what worries me. As we know now, the impact of technology is very complex and diffuse, and I do not think this is a proper approach to technology assessments, to proceed in such a specialized way. It might be very desirable if at some stage there were a parliamentary body that would have a perhaps broader view of the total impact of what we are trying to do.

Senator Martin: That is certainly the intention of the motion I made in the Senate, which was given strong support by the Minister of Justice the other day, in addition to the existing legal rights, of course, that exist under this bill, which do not exist under the other bills we have been considering. For instance, the manufacturer or importer of substances with nutrients has under this bill enormous recourse to the law, that he has not got under the Hazardous Products Act. The suggestion you have just made is, I think, a very good one.

Senator Robichaud: I should like to be a little more specific on the suggestion. With regard to the phasing out of phosphates, I understand the first stage will come into effect on August 1, and 20 per cent will be the maximum allowed. Before the second phase is reached, or the second step is taken for the total elimination of phosphates, for which the date of January 1, 1972, is given, if we could have an assurance that a review will be made before that date, it would satisfy some of the points that have been raised.

The Chairman: A full public review at that time would, I think, satisfy everybody.

Senator Robichaud: It would satisfy some of the objections raised.

The Chairman: It will be a very important step that is taken at that time.

Senator Cameron: This is not the first time I have said this. I think we owe a lot to

Senator Martin for bringing this review of statutory instruments into the Senate. I think the time has come when we must insist that the regulations used to implement any bill are published with the bill. Many people have suffered a great deal because of regulations which they knew nothing about. Had these regulations been public documents, along with the bill, the situation might not have arisen. I think this will take care of the situation very well. The regulations must be published along with the bill.

Senator Martin: To the extent that it is practical.

Senator Cameron: This is a qualification. I grant that it is not possible to do everything at once. As soon as the need for a new regulation evolves it must be made public. This would remove a lot of the justifiable fear that exists.

The Chairman: All regulations have to be made public.

Senator Martin: Excepting those affecting security and certain ones under aeronautics.

The Chairman: They have to appear in the *Canada Gazette.*

Senator Phillips (Prince): Mr. Chairman, you cut off my question. I was going to make that suggestion, but since I do want to be in a position of supporting you I want the record to read that you were supporting my view.

The Chairman: That is backward support.

Senator Phillips (Prince): I would like to direct another question to the minister. I understand that the detergents used in dishwashers are exempt from the regulations.

The Chairman: They are going to be exempted from the regulations.

Senator Phillips (Prince): What about those used in hospitals and restaurants where there is a health factor involved?

Hon. Mr. Greene: I do not know. I might ask our scientists to see whether that particular question has been considered. Used in hospitals for what purpose?

Senator Phillips (Prince): Hospitals use a special detergent for cleansing operating rooms in order to prevent cross-infection.

Hon. Mr. Greene: Which has a very high content of phosphates.

Senator Sullivan: We took care of you in St. Michael's Hospital.

Hon. Mr. Greene: You took good care of me, but it was not with phosphates; it was with tender, loving care.

The Chairman: You did not physically grow as a result of that. You grew in wisdom.

Senator Robichaud: May I get a more specific answer to the question I asked. Is there a possibility that assurance can be given that such a review would take place before a second step is taken?

Hon. Mr. Greene: As I say, this is a continuing gain and not a static gain. We hope that the industry will succeed and will divert a considerable proportion of our very great economic strength to finding substitutes for phosphates which will do a good cleaning job and not be conducive to the eutrophication of our waters and be composed of products which are not harmful in any other way.

Certainly, there will be a continuing review and an extremely thorough one. We will be in touch with industry at all times. I can assure you that while determination is there to remove phosphates which we are satisfied do contribute to eutrophication, we cannot close our minds in scientific affairs.

The Chairman: An opportunity for a public review would be given.

Hon. Mr. Greene: I am not sure what you mean by "public review", Mr. Chairman.

The Chairman: You could appoint an advisory committee which would hold public hearings. The public then would have an opportunity not only be heard but to know what is going to happen and what will be the impact of the steps you are intending to take.

Senator Phillips (Prince): Not only the public, Mr. Chairman, but Parliament.

Senator Robichaud: Over and above this I think it was mentioned that there is a possibility that this committee would be making such a review, which naturally would be of some assistance to the minister in making the decisions.

Hon. Mr. Greene: It might be very advantageous to have the Science Committee of the Senate make such a review.

Senator Martin: We hope to bring the Science Policy Committee to an end one of these days.

Hon. Mr. Greene: Before 1972.

The Chairman: This committee, Senator Martin, is a standing committee.

Senator Martin: This one here.

The Chairman: That is what the minister had in mind.

Hon. Mr. Greene: There is nothing to prevent their reviewing the subject. That might be an excellent form between now and the end of 1971 or six months prior when Senator Martin cannot find anything to do.

Senator Robichaud: Could we have the reaction of the industry?

Mr. Williams: I would like to pose my comments, if I may, in the form of a question. The regulations have not yet been published, but we all know what the regulations are going to be as of August 1 and what the intention of the Government is as of approximately January 1, 1972. I would like to ask this question: if industry could convince the Government that we are an honest industry and that we are trying to carry out a commitment which my own company is prepared to make—and I am sure the other companies too—by following a program for the total elimination of phosphates from our products—supposing we were able to convince the scientific supporters of the Government that it is absolutely impossible for us to totally remove or seriously reduce further the phosphate content in our detergents without serious damage to the health and welfare of this country, would we have the opportunity of presenting that case and would that case be accepted if we could convince the Government that we are honest people putting our best foot forward to achieve the Government's objectives?

The Chairman: Since I am chairman, I can start answering the question. You have the first assurance that you would be heard, and even in public. I do not think the minister would say that he is prepared in advance, in a political situation, to accept your views.

Hon. Mr. Greene: I hope the industry takes very seriously the fact that this is going to be the law. I do not want to have any deterrents to the industry putting all their resources to work on research that is necessary. I have found in other areas that if there is any way out which will save money and which will give a hope that at the end of the road it will be cheaper and there will be more profits, maybe they will not put all their resources to work.

I do not want any thought that there might be a way out. Certainly I think with any government that is reasonable and rational and its ultimate responsibility is to the people.

The Chairman: Of course, I think there is an additional protection in this case in the sense that Canada is not alone in this field. As you have been watching, we will certainly look at the situation as it develops in Sweden and the United States, especially when the Muskie Committee presents its report next fall after the election.

Senator Smith: At this point I wonder if we might have an answer to the question asked by Senator Phillips (Prince) which was very interesting. It had to do with the use of high phosphate content detergents in hospitals and similar institutions in order to prevent cross-infection.

Hon. Mr. Greene: I am not sure, Dr. Tinney or Mr. Davidson, whether we have specifically considered that question. Have we an answer or is it something we should take under advisement and find some way of making an exemption if required?

Dr. Roy Tinney, Acting Director, Policy and Planning Branch, Department of Energy, Mines and Resources: We have looked into that question and we are advised that a 20 per cent limit which we have established does not lead to any dangers for laundry detergents.

Senator Sullivan: Might I ask who advised you on that, please?

Dr. Tinney: The medical officer in the Department of National Health and Welfare.

Senator Phillips (Prince): Have you talked with the Canadian Medical Association and the Canadian Hospitals' Association?

Dr. Tinney: No, sir.

Senator Phillips (Prince): Do you not think it would have been a very good idea to have consulted them?

The Chairman: Let us not start on that line, please?

Senator Smith: Consultation with the medical profession and the nursing profession, there is no question about that.

Hon. Mr. Greene: I will undertake to have the officials investigate this directly, as it is certainly a very important question.

Senator Smith: It seems necessary, if we are going to find a way to exempt the use of this material and the dishwashers that cause this problem.

The Chairman: Are there any other questions?

Senator Phillips (Prince): This is complete change in the line of questioning. The minister's explanation in the House referred to control of phosphates in farm fertilizers. There has been very little in the discussion on this. What concern do you have and what are your findings in that regard?

Hon. Mr. Greene: At the present time, I do not think we moved any regulations with respect to farm fertilizers. I believe that someone correctly drew attention to that, and to the specific points in the I.J.C. report to the effect that farm run-off was one of the three or four major sources of phosphate into the waters. But really, in all candor, we have not done a great deal in that regard yet. It seems to me that it will be fourth or fifth, I would think, in the order of priorities suggested by I.J.C.

As far as I recall, the highest on the list of priorities is the phosphate content in detergents which can be generally harmful; secondly, there is the three-point plan, which I think one of the senators mentioned, the question of timing, the treatment plant, and the amount of money available and the ability to direct the performance. Thirdly, there is the separation of storm and sanitary sewers, and I believe the figure, for both, which is suggested for that is $10 billion. That is one aspect of phosphate control.

I think the fourth on the list was the question of the phosphate content run-off from farms. Probably that will be the last to be moved on. If we can hit the first three and can complete everything that needs to be done, it might then be that the phosphate farm run-off might not be too serious.

Senator Phillips (Prince): Then we can have some assurance, I assume, that the regulations will be referred to a parliamentary committee?

Hon. Mr. Greene: If there are any regulations made in regard to farm content, certainly as to the use of phosphates in farm fertilizer, they would require to be discussed by farm groups and farm organizations and members of the agricultural community so that they could have their input into such decisions.

Mr. Lillico: The reason for our proposing a board of review was that, despite the facts that have been referred to, specifically, the minister might, at whatever stage, appoint an advisory committee as he considers desirable. We thought it would be preferable to have something more specific so that we would have a bona fide opportunity to give him our opinions in those areas in which we have knowledge and therefore not cause a problem in the next two years, before he decides to go to the next step of phosphate reduction.

The Chairman: If I understood the minister clearly this morning—and perhaps my English is not too good this morning . . .

Hon. Mr. Greene: C'est trop bon.

The Chairman: I understood that the minister made this kind of undertaking before this committee, and I know the minister very well and certainly he will stick to his undertaking.

Hon. Mr. Greene: Especially when it is on the record.

The Chairman: Are there any other questions?

Mr. R. J. Comfield, Sales Manager (Detergent Industry), Electrical Reduction Company of Canada Ltd.: Mr. Chairman, may I say in general, as the minister knows, that there are some of us who are not really convinced. We admit that perhaps it is part of the minority view at the moment, that the removal of detergent phosphate, and probably of human waste, is not going to stop the algae problem, because threre is so much phosphorus there naturally and so little is required to cover a lake.

I am wondering whether there is a larger plan or program to measure the results? In other words, will we be able to compare the algae blooms, let us say, two years from now, to last year? We are not resource oriented, it seems to me. We will be hoping to reduce the phosphate in the lakes, but will we see the end of the algae problem? I was wondering if, in the overall approach, there is a means of measuring this or attempting to measure it.

Hon. Mr. Greene: Possibly Dr. Bruce, the Director of the Canada Centre for Inland Waters could make some comment.

Dr. Bruce: Mr. Chairman, we have a program not only on all the actions taken in Canada but on the actions taken in the United States, to make sure that continuing transboundary pollution does not occur.

Mr. Comfield: May I ask if that is confined to the Great Lakes, or is it throughout Canada?

Dr. Bruce: The studies are done throughout Canada and we are able to measure the phosphate, and have the results on this and other perimeters as well—but we are concentrating our efforts on the Great Lakes at the present time.

Senator Kinnear: And on Lake Erie?

Senator Martin: And Windsor. Senator Kinnear and I have a great interest in Lake Erie.

Senator Phillips (Prince): I think some of the concern is due to the fact that there is no agreement on cost sharing between the federal Government and the provinces. I wonder if the minister could give us some indication of the proposals?

Hon. Mr. Greene: Senator, the concept is that when a water basin becomes an area of water quality management, the first board appointed comes up with a plan on standard quality to be achieved, the optimum quality for that particular basin, how it is to be done, and the cost. That original planning group then reports to the governments concerned, provincial and federal, and makes representations. I think those groups will make specific recommendations as to breakdown of costs between the provinces and the federal Government.

Mr. Krumrei: They may do so.

Hon. Mr. Greene: Either that or the officials will get together and see if they can work out a distribution of costs. However, I personally would hope, in the appointment of the planning borad, that it would be in their terms of reference to recommend the distribution of costs, because at least that would get the provincial and federal governments started on some basis of apportionment. But it will be different in different water basins. In some areas, most of the responsibility will be federal, it will be largely a federal body of water. In others, where everything that needed to be done was municipal, in such plans in that area it would very clearly be within the provincial ambit of responsibility, and thence municipal. It might be that in such case the federal Government would be required to provide a large share of the financing. But it will be different in different waters.

Senator Cameron: In view of the discussion which has gone on, I wonder if this meeting would agree that any body which feared there might be some action arising from the legislation that would be opposed to their interest could ask for a hearing before this committee. Then this committee would be a constant public forum, which obviates the necessity for amendment of the bill.

Some hon. Senators: Agreed.

Senator Smith: The Leader said "agreed" and that is on the record.

The Chairman: I may be fired as chairman.

An hon. Senator: Shall we report the bill?

The Chairman: I do not think we can do that now. It seems to me that we should adjourn now and meet perhaps at 2 o'clock. Would that be too early?

Senator Martin: You can report the bill back today?

The Chairman: We have to go through the bill clause by clause and we have not done that yet.

Senator Robichaud: We could do it now if there are no objections.

The Chairman: All right. Let me first on behalf of the committee express our appreciation to the minister for taking the time to answer the questions that were put to him this morning. Thank you very much.

Hon. Senators: Hear, hear.

The Chairman: I also want to thank our guests of this morning. This has proven to be quite a useful meeting. I would certainly hope that there will be full co-operation, because this is what is needed in this field.

Senator Robichaud: Is there any reason why we should go through the bill clause by clause? After all, we have discussed it in detail. I think there is precedent for omitting clause-by-clause consideration. Therefore I move that Bill C-144 be reported without amendment.

Senator Phillips (Prince): I have one question dealing with clause 15, and I raised this point earlier when I asked if the accounts would be open to inspection by the Auditor General. With the Winter Works programs for ten years we have had a problem because of provincial governments being involved. But here we are not dealing with any provincial government, so will they be open for inspection?

Senator Martin: Yes. This is an agency appointed by the Government.

The Chairman: Mr. Davidson also tells me that there is no question about that.

Senator Robichaud: I move that Bill C-144 be reported without amendment.

The Chairman: Is it agreed, honourable senators?

Hon. Senators: Agreed.

Senator Martin: Does that mean it will be reported today?

The Chairman: Yes.

The committee adjourned.

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